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Judicial (~~193~~ 1872) Department.

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G.O. No. 1370

DATED 12-10-1872

Confidential

[Despatch Abstract.]

The Madura Case —
Muthukistna vs Mr Goldingham

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	D[illegible]

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Dat[illegible]

Proceedings of the Madras Government, Judicial Department,
12th October 1872.

Read the following papers :—

No. 40-A. From J. F. SNAITH, Esq., Madras Civil Service, to the Acting Chief Secretary to the Government of Madras, dated Madura, 9th July 1872 :—

I have the honour to submit the explanation called for in the G. O., dated 24th June 1872, No. 868, forwarded with the proceedings of the Madras Government, Judicial Department, 24th June 1872, No. 55.

2. I remark that Mr. Goldingham does not directly charge me with being a member of this " conspiracy " against him, but he leaves it nevertheless to be inferred. Again, it seems a remarkable thing that he does not submit his own deposition in the case of Mutukisna *v.* Goldingham, since it was the first evidence taken in the suits. I think that had he done so, his complaints against Captain Guthrie and myself would not have received the attention from Government that he desired. And it is possible that had he reflected for a moment that Government would have allowed us an opportunity of explanation, he would not have complained at all.

3. The complaint, so far as it affects me, is of a very simple character: it amounts to this, that I have given evidence against Mr. Goldingham in a civil suit brought by Mr. Mutukisna. Mr. Goldingham, as a Judge of some standing, must be aware that I am not exempted from the necessity of giving testimony, and that there can be no offence in a witness to be called as a witness, provided he states that which is " the truth, the whole truth, and nothing but the truth."

4. But Mr. Goldingham does not allege that I have stated what is not the truth ; but he draws the " earnest attention of Government to two specific statements.

I. " I have participated in plaintiff's wish to get rid of defendant from this district. I wish to see defendant removed, more on public than on private grounds.

II. " His character has been constantly attacked on my croquet ground, on Thursday last there was such an attack made upon him by me and another in Captain Guthrie's hearing."

5. With regard to the first of the two statements it would be amply sufficient to say that I have participated in plaintiffs' wish, and that I do desire to see the defendant removed, more on public than on private grounds. It is, I imagine, a sufficient matter of notoriety that our wishes and desires are beyond our own control ; and that we wish and desire very often without exactly knowing why, and sometimes even against our own interests. Were it otherwise, the number of our wishes and desires would be exceedingly curtailed. It is the same with belief. We believe first, when belief is worth holding, and justify it afterwards, if we can.

6. Now I have abundant reasons for this particular wish and desire, and in the interests of the public I will state them. Ever since I have been in this district the most scandalous reports have been rife with respect to the administration of justice. These reports are of a very grave character, and deserve at least some attention, were it only for this reason, that it is desirable that Judges at least should be in some degree removed from the regions of suspicion.

7. And now the serious nature of my task dawns upon me for the first time, for I scarcely know where to begin, or when I shall ever finish The Government will take a careful notice that I do not say that these reports are without exception true, or capable of being proved true. I say they are in existence, because I have heard them. The most important of them I am in a position to trace to Mr. Goldingham himself.

8. Now Mr. Goldingham shewed a pamphlet to a gentleman of this station, who asked him where he got it. "Be quiet," was the reply, "it was stolen out of Mutu's desk" (meaning Mr. Mutukisna, the plaintiff). The gentleman came and told me himself with the greatest indignation, and has since many times repeated the statement to me, so that there is no possibility of my being mistaken. And I am here in a position to give an argument to show how inferior a rôle I have played in this "conspiracy" drama.

9. This fact I knew at least as far back as the beginning of this year, yet I concealed it from the plaintiffs' and I never even told it to my alleged brother conspirator, Captain Guthrie, till the trial had commenced, yet it would have been a valuable fact for our conspiring against Mr. Goldingham to get hold of, it being, as I apprehend, felony—and then only because I was exasperated when attending the Court in obedience to my summons and against my will, the defendant's vakil moved the Court that I should be ordered out while the defendant was in the box, on the ground (as Mr. Scott told me openly in Court) that they wanted independent testimony. The defendent best knows why he desired my absence.

10. A second gentleman from Madras, to whom Mr. Goldingham shewed this same pamphlet, at once wondered how it happened to come into Mr. Goldingham's possession, since Mr. Mutukisna's handwriting was on it. It is astounding that Mr. Goldingham, a Criminal Judge, did not anticipate so obvious an inference. And that gentleman became shortly afterward well aware that it was stolen from the plaintiff, or at least is aware now and was aware long before Mr. Goldingham's admission appeared in the papers.

11. Who, I may say, would have been the wiser if I had informed the plaintiff of this fact by letter? I could have counted on the plaintiff not to betray the source of his information. The plaintiff would not willingly offend any one, much less, with his present experience, a second judge, before whom he pleads as a barrister. The Government will see that from official motives I was discreet.

12. To the utter amazement of every one, the plaintiff pointed out in open Court a Civil Court copyist as the thief. This copyist (then and now a copyist of the Civil Court, as I am told) apparently went on leave for no other purpose, entered the plaintiff's employ as a gumasta, effected his object, and then left without either pay or explanation. The report among ourselves is that the defendant knew of the existence of the pamphlet because plaintiff had shown it to Lord Napier, and that he instructed his Sheristadar to get it, and that the Sheristadar employed the copyist. Mr. Mutukisna has, I hear, now filed a criminal complaint before the Assistant Magistrate.

13. Again, Mr. Goldingham has told two gentlemen that he caused Poonoosami Taver to put petition suits into the Small Cause Court, when Mr. Golding-

ham as Judge desired an excuse for the Court's remaining at Ramnad, according to one story, or for a day's *shikar* according to the other.

14. Mr. Goldingham has also said that he would take very good care that Mr. Mutukisna had no more cases in his Court. Mr. Goldingham has also spoken of the plaintiff in these terms, " The brute, if he does not keep quiet, I shall have to shoot him."

15. Mr. Goldingham has also admitted he corrected one of Vencatasami Nayak's letter in praise of himself (V. N.) the said V. N. being the most intriguing man in the district, and a " monster litigant" in the Civil Court.

16. I now come to the rumours which do not emanate from Mr. Goldingham himself.

I. That Mr. Goldingham takes receipts every month, but in reality pays no rent. The truth of this I have no means of knowing.

II. That he has Poonoosami's ice-machine. This rumour I believe on European authority.

III. (*a*).—That he got Vencatasami Nayak to buy Mr. Levinge's house on the Pulney Hills, and that finally, when it suited his convenience, he made V. N. against his will sell it to him, when the said V. N. wished to make it over to Mr. Levinge. This rumour I have no reason to doubt.

(*b*).—That he has not paid for it, and that V. N. will be down upon him directly he is removed from his present post.

IV. That his butler's brother is a Civil Court Amin. This is possibly true.

V. That he repeatedly forced the late Principal Sudr Amin to do injustice, particularly in Mr. Scott's water dispute, the Government ryots having an undoubted right to the water. This I have the best reason in the world for believing, and I desire the earnest attention of Government to this matter. Much depends upon it.

VI. That he takes bribes of 5,000 Rupees; that the money is taken to him at night in currency notes. (This is, in all probability, incapable of proof, and the report must of necessity takes its rise from natives.) That Desam Ayyengar gave him old pearls worth 5,000 Rupees. (He who told me this said he could produce the man who found the pearls, and that the first lot was returned as not being sufficiently good. Previous to this information I had heard of these pearls from a European gentleman in a way which aroused my suspicions. His version was that the necklace* was put round Mr. Goldingham's child's neck, and that the owner was Seshadri Ayyengar; as to the latter I think he was quite mistaken, at any rate, and if the whole be false rumour, there is the story).

* And he added that the necklace was afterwards made into a cross.

VII. That Mr. Goldingham has agents for purposes of bribery all over the place, who are not paid, but pay themselves. That his chief agents are two vakils of his own Court, the two who are defending him now, one of whom is brother to the Collector's Sheristadar, and that thus there is an irresistible combination, which no honest man can stand against. (This, true or not, will never be proved, but I heard it from a man of honour who firmly believed it, and who knowns much more than I do. He had no conceivable motive for calumny).

VIII. That he has frequent interviews with an old pensioned dresser* who is known as "Venky's tout" (Vencatasami Nayak's), but that V. N. himself is told to keep away from the house.

* For this I have excellent authority, a European eye-witness.

IX. That he splits all great causes into two. (I have no means of knowing the truth of this). That he recommends a particular barrister to suitors, with the object that the two may divide the proceeds. This I was told by a lady from Madras, whose name the Government will, I am sure, not require.

X. That the Sévakáran (who organizes all the great robberies and dacoities in the district and lives in a large house furnished in the European style) boasted that he should be acquitted, because he had given 5,000 Rupees to his brother before he went to gaol. That the said Sévakáran went straight from the Court to a feast prepared. Now I know that that the Sévakáran was on his trial for murder of a Tahsildar's widow, under circumstances of great barbarity, early in the evening, and in the midst of Madura town. A vast amount of property was stolen, chiefly in sovereigns. The population was immensely alarmed at this period, and while afraid to stir out after dark were terrified if they stayed at home. Great indignation was expressed at this man's acquittal. I myself saw him in the dock, he displayed amazing *sang-froid* for a man on his trial for murder.

XI. That in the charge of murder brought against the Zemindar of Coimbay, the Zemindar calculated on Mr. Goldingham throughout. That the murder was undoubtedly committed, I have heard from three officials who were in a position to know. Mr. Davies, who tried the case, went to Coimbay, and told me he was thwarted at every step, and was compelled at last to release the Zemindar. And this was a murder (if a murder at all) of a most wanton and barbarous character; the deceased, an old man, having been put away with the acquiescence of his nephew, who was bought, in order that a relation of the Zemindar's might be convicted of the crime. When Mr. Davies suspended the Zemindar's vakil for tampering with the witnesses, the Government well knows how Mr. Davies fared, but I will explain hereafter in detail what occurred, for I was behind the scenes. He had the impertinence to call upon me after his release, he has in other respects a bad character, and of course I refused to see him.

XII. That when Lord Napier visited Madura, the pagoda authorities paid for every thing, and that it did not cost Mr. Goldingham a penny for entertainment (of the truth of this I have no means judging), I must say, however, that I was shocked at the prominent part played by the Pagoda Manager (Vencatasami Nayak) in the proceedings.

XIII. That in the Pulney Hills Sub-Magistrate's case, where the Judge was severely censured by the High Court, the Judge sent for the Sub-Magistrate to his own house, and made him reverse his passed decision fining the Judge's own servant, for a breach of the Abkari Act. (There is no reason for doubting this). In the High Court's Order wherein this phrase "so blind to the first principles of judicial procedure" occurred, and was applied to Mr. Goldingham, Mr. Goldingham read it aloud as an amusing joke and (if my memory serves me rightly) to a lady, for whom it could have no possible interest. (I forget my authority, it must have been some gentleman resident in the Station).

XIV. That Mr. Goldingham objected to have the bond for 75,000 Rupees registered in this District.

XV. That even Vencatasami Nayak said he would rather give 20,000 Rupees than be called as a witness against Mr. Goldingham, as he had many suits in the Civil Courts. (This I can prove any day).

XVI. That the reversal of the Acting Head Assistant Magistrate's decision against the Sub-magistrate of Shivagunga was not *bona fide*; and that the case which the Magistrate had taken so much pains about, was disposed of with summary and indecent haste, and that because Pichaveyya, the aforesaid Sub-Magistrate, had been intriguing for Vencatasami Nayak at Shivagunga. (The Sub-Magistrate himself told me he had not a shadow of doubt of this man's guilt, for I asked the Magistrate on purpose to find out, as I had been told that it was the grossest thing that had ever been done, even in Madura).

XVII. That in the case of Seshadri Iyengar, *v.* Chidambaram Chetty, the receipt produced by the latter for 60,000 Rupees was a forgery. That it was reported in the bazaar a forgery, I well know, and the truth is often told in the bazaar, and always known there much better than it is in Courts. That this is not the first time by any means that Chidambaram Chetty, reputed the richest man in the district, has committed forgery. The Plaintiff obtained two lakhs minus the said 60,000 Rupees, and told me that he was afraid, that he did not know what would happen next, that not only was the receipt a forgery, but the whole of the accounts. Seshadri Iyengar is Poonoosami Tevar's Executor, and it would be well if Government, by delicate handling, could induce him to tell what he knows.

17. The above will suffice by way of reports, they are, however, not nearly all. If these things are said, let the Government imagine how many more are suppressed.

18. The Government are perhaps aware that I am Acting Assistant Principal Sudder Ameen as well as Acting Small Cause Judge. As Acting Assistant Principal Sudder Ameen I believe I am not incorrect in saying that every thing I have done save one has been reversed. This single exception turned on the fact whether an endorsement was a forgery. The Civil Judge was already committed, having convicted and sentenced the man concerned with forgery of this very endorsement, a conviction which was set aside by the High Court. It was nevertheless a forgery, and Mr. Goldingham was right.

19. I will give two examples of Mr. Goldingham's reversals. Fresh issues in a case were sent to me to try (in substitution of my order reversed) and so far as I could make out the meaning of the proceedings of the Civil Court with the assistance of two Civilians, the real question was whether two months were two months or something else. The subject matter was a tender of payment to my own Court, my officials were the chief witnesses. I found at the time, believed then, and believe implicitly now more than ever, that there had been no tender, as set forth. The Civil Judge reversed my finding, though such reversal could do no good, for the other part of the decree not having been fulfilled, he was bound to decide against the alleged tenderer.

20. Questions of fact are usually left to the original Court, I need scarcely tell the Government.

21. The Civil Judge has also reversed my finding in the Sola-Kurichi Case It took me infinite labour and trouble, and is the falsest case I ever heard or read of, and it is a case ultimately involving property to the amount of 250,000 Rupees. It will, I understand, eventually go to the Privy Council, and I can afford to wait, but it is hard on the people of Sola-Kurichi. Every one here knows why it was reversed.

22. I *may* be always wrong, I am new to judicial work, but no one has told me so, and I cannot believe it, merely because Mr. Goldingham reverses all I do. That I am not utterly useless as a Small Cause Judge is proved by the fact, that the merchants petitioned not only for me to stay here, but for an extension of my jurisdiction; and I have been told privately (but it may have been flattery), that mine was the only Court the people had any confidence in.

23. Apropos of offences committed against Justice, *e. g.*, forgery, perjury, &c., I have sent two cases to the Sessions Court, one directly, one through the Assistant Magistrate. The one was so strong that the prisoner's pleader, Mr. French, advised him to plead guilty; it was a case of perjury and bribery. The Sessions Judge was compelled to convict. The sentence was that the prisoner be detained in the custody of the Nazir till the rising of the Court that day.

24. The other was disobedience to a summons and a refusal to come to Court without a payment from the plaintiff of 35 Rupees. The man was no ignoramus, but a Brahmin and a Taluq Gumasta. I knew it was of no use to commit myself, and so I sent the case to the Head Assistant Magistrate, who convicted and fined the man 50 or 100 Rupees, I forget which. The conviction was quashed, and as the offence was only committed against the Small Cause Court, the Judge called it an "alpa-sangati," or trifling matter, but the Judge quashed the conviction without (as I have been repeatedly told) either hearing the appellant's vakil or calling for the record.

25. And now perjury and forgery compel me ever to run the risk of doing injustice, while witnesses can do as they like about coming to Court. I am powerless. I have to rely on instinct alone. "Send him more cases," said a man of high rank to me, "and heap upon him wrong upon wrong till he is overwhelmed." But the Government will see how disheartening it is to keep on pouring water through a sieve.

26. The reasons I have of a private nature are soon told.

I.—We are all under a sytem of espionage in our own houses and at our own tables.

II.—We are constantly hearing disagreeable things said.

III.—The shame that attends one of our community affects us all.

27.—The first of these admits of no doubt, and is not doubted here. And spies are necessary, because Mr. Goldingham has no other means of getting information. The fact that Captain Guthrie sent me papers at Ramnad could only have been known through spies.

2. Mr. Goldingham has accurate information of what goes on, but not accurate information of what is said, and we well know that there is no European in Madura who would not be on his guard as to what he said before Mr. Goldingham.

3. Mr. Goldingham had heard that Mr. Davies, when he left this district, met by arrangement Mr. Mutukisna at Salem. For some time it was a puzzle what was meant by this stupendous statement, and finally it was discovered that the rumour took its rise from some badinage at Captain Guthrie's table about Mr. Davies's trip to Ceylon, and they said (of course in pure joke) that he was going to run away with Mrs. Mutukisna to Ceylon. The Mrs. became Mr., Ceylon. Salem. Unhappily, the joke was laughed down, or Mr. Davies would have been in the "conspiracy" with myself and Captain Guthrie, for Mr. Goldingham had said "won't I cross-examine him?" meaning Mr. Davies.

4. Mr. Mutukisna's house is not only watched and all that goes on there known, but Mr. Goldingham was so indiscreet as to let it out by accusing Ram Rao of having been there. I am even told that Mr. Mutukisna's servants are in Mr. Goldingham's pay. But it is clear that these reports are only reports, will certainly be denied, and will probably never be proved. Suffice it that they are said and believed.

5. About my own house there are always suspicious looking persons, and my guests and myself firmly believe they are spies and touts.

28. As for the second of the specific statements complained of, I imagine, I am not liable for what I say in the privacy of my own premises and among my own friends, and for what is never intended to be known outside that circle. But the Government will remark that the statements complained of were made when this trial was at its height. Mr. Goldingham had then been three days in the witness box, and that they hear reference to Mr. Goldingham's conduct as a party and as a witness. If they are not flattering they are unanimous, and that they are either one or the other Mr. Goldingham has only himself to thank.

29. Mr. Goldingham says he does not know of any adequate reasons for the "violence of my hostility" to him. This surprises me, as he might so easily have surmised the cause, or obtained the information if he desired it. As I really have a private grievance against Mr. Goldingham, however, I will tell it.

30. Shortly after Mr. Goldingham obtained possession of that house on the Hills I was staying at Shenbaganur, while Mr. Goldingham was at Kodikanal. His conduct had been so heartless and selfish as regards Mr. Levinge (whom he also called insane for wishing to return to a place he had made and dearly loved), and so discreditable to himself in my opinion, that I delayed visiting him in that house, and was seriously debating whether I would ever do so at any time; but ere I had come to a fixed resolve, a guest of mine went up from Shenbaganur on a visit to Mr. Goldingham. The guest returned abruptly next day, said he had had a most unpleasant visit, and would never go again under any circumstances. I asked him what happened. He told me that Mr. Goldingham had abused me in the grossest language, and not only me but Captain Guthrie, and my other guests, and this gentleman did not tell me for purposes of mischief, for he offered me free leave to use his name and take what notice of it I chose, and then, had there been an explosion, he would have had to justify the part he had taken in bringing it about. There was no other reason for this than the fact that I had not called on Mr. Goldingham. Out of consideration for my friends and guests alone I remained quiet, for I was never so outraged in my life.

31. The Government will now see why I never told Captain Guthrie till after this trial commenced, and then only because the defendant's counsel brought up the circumstances again. (Similarly, Captain Guthrie has never told me the private cause of his bitterness against Mr. Goldingham; but I have reason to surmise that it is something which while it can never be forgotten, can never be repeated). These expressions were in a sort rather more than private, for they were uttered before a French gentleman. I then resolved never to cross Mr. Goldingham's threshold again; but for official reasons I broke my resolve, once only, viz., when Lord Napier came to Madura, and that at the earnest persuasion of my friends and against my own conviction. On that occasion I went to Mr. Goldingham's to dine, and bitterly regret having done so; for it is dishonest to seem to be a friend when you are not a friend, and reasons official or other than official can make no difference. For some time afterwards Mr. Goldingham used to bow when we met, and then all at once he ceased to condescend so far and without any fresh cause whatever. Mr. Goldingham has therefore throughout the credit of whatever merits belongs to the initiative.

32. Mr. Goldingham says in his letter of Captain Guthrie's evidence:—"These papers, he admits, were sent to him for his perusal by the plaintiff, and the list of witnesses he rather thinks he sent on to Mr. Snaith." Now Captain Guthrie actually says, "I sent the list of witnesses to Mr. Snaith. I rather think I sent him the paper of issues also." The Government will remark the difference between the two statements.

33. Where there is no press, as in the mofussil, the only method of getting accurate information as to suits is to obtain copies of the record from one of the parties. I applied to Captain Guthrie, because he alone was in a position to ask plaintiff for them.

34. Mr. Goldingham says no one that he knows of has evinced curiosity except myself and Captain Guthrie. But it is surprising that Mr. Goldingham is not aware of the intense interest which this case excites, not only in this District and Presidency, but even in Bengal and Bombay.

35. I had many correspondents anxious to know about this trial. I was 68 miles from Madura, and I wished to be accurate in the information I conveyed. Moreover, after Mr. Davies and Mutusamy Chetty were moved from Madura, the disorderly faction began to threaten me, and I went nowhere without hearing of my coming removal, because, forsooth, I had decided cases, not against law or evidence or justice, but against Vencatasami Nayak, and because I was disliked by the Civil Judge.

36. I then saw I must make myself acquainted with the state of parties in Madura. I had been told (whether truly or not) that Vencatasami Nayak was petitioning against me, and that he dare not act without the countenance of the Civil Judge, and I knew that if complaints against me were referred to the Civil Judge for confidential report, what would be my fate. And the connection, I may say, between Vencatasami Nayak and Mr. Goldingham, is a matter of notoriety in Madura.

37. I have therefore ever since kept a friend at head quarters well informed, in case that if an accident happened I should know where to look for sympathy at

any rate, if not for assistance, and that friend was himself anxious to see the papers in this suit, as indeed almost everybody is.

38. As for the rumours, I stopped them by solemnly declaring that I knew what was going on, and that I would never be moved without an enquiry. Again, I looked forward to this trial as a breaking up of a state of things which has long been intolerable, and hence, chiefly, its interest for me.

39. Mr. Goldingham says, "It is hardly necessary to say the Collector was prepared to deny ever having used such an expression." The exact words used were, as reported to me at the time by Mr. Davies (in reference to Mr. Goldingham's use of the Collector's name in Mr. Davies' case) "it is unauthorized, it is a lie" and it was in reference to this same correspondence (between Mr. Goldingham and the Government) but on another occasion, that the Acting Collector called Mr. Goldingham "a shallow knave." Mr. Davies also told me that the Acting Collector would do nothing for him, because he said it was of no use his (Mr. Davies) remaining, as Mr. Goldingham would certainly quash all his convictions. And from the date of Mr. Davies' first difference with the Judge this had actually happened, and Mr. Davies was compelled to admit that Mr. McQuhae was not wrong in that regard.

40. This seems the proper place to explain the secret history of Mr. Davies' case. Mr. Davies suspended Mr. French, a vakil, honestly, but perhaps erroneously, believing that he tampered with the witnesses in the Coinbay murder case. Mr. French appealed to the Civil Judge. The Civil Judge wrote Mr. Davies a private letter saying that none of his reasons justified his action, and urging him not to disobey "the further order" of his Court. Now Mr. Davies and I were at that time almost always together, and I exacted a promise from Mr. Davies not to disobey the further order, and I also told him, from the experience of my predecessor,* how difficulty it was to prove a charge against a vakil † The Civil Judge in this letter (a private letter on a matter judicially before him) said, "I know that he is a horrid rascal, but the difficulty is to nab" (sic) "him." I may here remark that as there never was a question of "nabbing" Mr. French's Gumasta, Mr. Davies has not, as Mr. Goldingham says, given a garbled version, in my opinion and so far as my memory serves me. The Government will note that Mr. Goldingham does not say he alluded to the Gumasta, but he apparently, nevertheless, leaves the Government to draw that inference. But Mr. Davies has, I doubt not, the original letter. And that same letter asked Mr. Davies to go over to see Mr. Goldingham. I still (I cannot tell why) felt anxious for Mr. Davies, and yet I thought Mr. Goldingham from this letter intended to prove his friend, and I was glad of that, though I accounted it a strange letter for a Judge to write under the circumstances. On the very next day, I believe, it was reported in the bazaar that Mr. Davies had been handed up for contumacy, though I can swear Mr. Davies was awaiting the further order, which he promised me he would not disobey. The sequel confirmed my suspicions. Mr. Goldingham on his mere report gets Mr. Davies censured by the High Court, and the censure arrives at

* Mr. Daniel.

† In allusion to Nagana Nayak's case.

Kodikanal on Christmas Day, on which day Mr. Davies was to dine with Mr. Goldingham. Mr. Goldingham calls it "a nice Christmas box," and sends it down forthwith to Mr. Davies. Mr. Davies feels he has been betrayed, and declines to go to dinner. Mr. Goldingham hears of Mr. Davies' reason, and affects, or feels surprise, asks a guest of his own to write down to a gentleman staying with Mr. Davies, and to say that if he had led Mr. Davies to expect a further order he would write to the High Court that Mr. Davies had not been so very contumacious after all. He asks to see the letter. It is sent. Mr. Goldingham forthwith copies it, writes to Government a letter commencing "Honourable Sir," anticipates Mr. Davies, and says he meant not "the further" but "further the," gives his own version (a most unfair one, as I am eager to testify) urging, not that Mr. Davies had refused to dine by reason of a private betrayal, but because of an official difference. Mr. Goldingham made an unauthorized use of the Collector's name, and Mr. Davies, without an opportunity of explaining, was forthwith removed from the district, at great expense and annoyance. And yet Mr. Goldingham speaks scornfully of this as "what he called his grievances at the time." Can Mr. Goldingham wonder that his reputation for truthfulness is bad among Europeans after this? I can assure the Government I have to put a strong constraint upon myself not to use indiscreet language, as I recall these transactions.

41. Mr. Goldingham says at the close of paragraph 9 that he regrets Mutusami Chetty's attendance was not procurable. It appears a strange statement to a man acquainted with the affairs of Madura, and I find very great difficulty in believing it. He complains also that Mutusami Chetty did not call to take the customary leave of him. It is odd that Mutusami Chetty should have been so civil to me, to whom he owes nothing, but he called on me, and in a paroxysm of indignation told me things of a sufficiently startling character. Perhaps if the Government encouraged him (and he is a man of the utmost probity and honour, and of a most lofty character), he might again be induced to speak out, and I can assure the Government he will be worth hearing. And as Mr. Goldingham has made a direct attack upon him, Mutusami Chetty, who has nothing to fear, would probably be glad of an opportunity to reply.

42. If, in the note to paragraph 10, Mr. Goldingham alludes to the Madura Moonsiff as his best, I can only say that the public and Mr. Goldingham are not agreed on the subject.

43. At the close of Captain Guthrie's deposition Mr. Goldingham, in a note, says, that Captain Guthrie knows who are his friends perfectly well. If Captain Guthrie does know, he has never informed me, and I am certain that Mr. Goldingham has not a friend in this district among Europeans; nor do I believe any Native is his friend, in the proper sense of the word.

44. Nothing is more true than what I say now, that it is impossible for any outsider to form an idea of the dislike which is felt towards Mr. Goldingham in Madura. It is intense, it is, I believe, shared by all, no one has a good word to say for him, and, so far as I can see, there is ample cause for it. But however that may be, there can be no harm in mentioning a fact, which in fairness to

Mr. Goldingham himself should be borne in mind, now that so many charges are brought against him.

45. I will now speak of this trial and explain how far I am connected with it. Perhaps it will not be presuming too much to submit that I have a perfect right to sympathise with any man who is struggling against injustice, or what seems to me to be injustice, and even to advise him as to the means of obtaining redress. I may say no power on earth can touch my sympathies. They are beyond even my own control. And it is well, for they are the best part of us.

46. Now, before this trial, I had never seen the plaintiff except twice, otherwise than officially, when I was the judge and he the advocate. One of these occasions was a visit of ceremony either to myself, or a civilian at that time my guest, I do not know which. I took the visit, however, as one to myself, and as I never allow any one to outdo me in civility, I returned the call to Mrs. Mutukisna, an English lady, by the way, of good family, on neither occasion did Mr. Mutukisna mention Mr. Goldingham's name, neither has Mr. Goldingham ever mentioned Mr. Mutukisna to me.

47. I first heard of the trial after it had been instituted. I was absent either at Dindigul or Ramnad, I do not know which, for I have no idea to this day when the suit was instituted, I never knew I was to be called as a witness till I received the list from Captain Guthrie, I scarcely believed it then, till I received an actual summons; when I got into the box I did not know what I was summoned for, and what I said that was damaging was elicited by defendant's vakil in cross-examination, *the defendant himself in person being seated between his two vakils and suggesting the questions in the court of his own subordinate, a native*, and these two vakils, one a Native and the other an East Indian, are vakils of his own Court!

48. My very first communication with Mr. Mutukisna was to write him the other* day and to tell him that I had heard it had been stated in Court, that I was a member of a "conspiracy" against the defendant, and to ask him to give a most unqualified and indignant denial from me.

* i. e. July 1st. The hearing of the suit began on 28th May.

49. The Government should remember, with reference to Captain Guthrie's replies especially, that the question of integrity had been overruled, yet the defendant has had the singular indiscretion to boast that Captain Guthrie and myself fell into his "trap," i. e., a trap baited with his own integrity. And accordingly Captain Guthrie is to be remanded to his regiment, and I am to be carted off to Pennakonda. Mr. Goldingham, I see from the note to paragraph 6, is conscious of the coming exposure of this stratagem, and, as is usual with him, he anticipates it. But it is perhaps not too much to expect that judges in civil suits, when they are parties, should abstain from stratagem.

50. Now why this story of the "conspiracy" was mentioned in court, was obviously to reduce the damages. Why it was dwelt upon afterwards, was because Mr. Goldingham did not find us moved off at once, and it was necessary to do something with it to make the Government believe (the Mail Reporter was in Court) the defendant really credited it.

51. But that it was never seriously put forward in court is manifest from the fact that no evidence of it was attempted to be produced, and the facts of this case are too well known in Madura, to admit of fictions being employed as substitutes, especially in a Court of Law.

52. The Government will easily see from the knowledge of circumstances displayed in this letter, that I should have been the last man in the world to advise Mr. Mutukisna to sue the defendant in his own district, in the midst of his own resources.

53. This quarrel began long before I came here, every thing proves to demonstration that I have been advising neither party, yet if I had moved, I submit I should have exercised an undoubted right, but I certainly should have moved in the direction of the High Court. But I have never been asked to move, nor even to come as a witness, save in the peremptory wording of a summons.

54. The " conspiracy" is in a way necessary to Mr. Goldingham, but it would have been but an absurd superfluity to the plaintiff, such as gilding refined gold, &c. Mr. Goldingham must be well aware that there is no " conspiracy whatever. If there is anything, it is society in arms against him, and it is well for society to save itself in time.

55. I will here say a few words about the present state of things in Madura, and Government will ascertain whether there is cause for alarm or not. We seal our chits and write on them the time of despatch and receipt, and compare notes afterwards. Medicines from the Dispensary are sealed by the Dresser, who is responsible. Mr. Mutukisna's medicines are made up by the Dresser's own hands. There are not only great irregularities in delivery of letters, but some of my own peel open (this I have shown to another and we tried an experiment, fresh paper put in the gum actually adhered, and remained adhering). There are most serious robberies at the Post Office both of gold and notes. No one has any confidence in the Post Office here, and I have been recommended to send this report to Dindigul by cooly. There are still worse robberies in the Pagodas, besides embezzlement. Black mail is paid habitually by the highest who wish to keep their bullocks. (This fact came out in my own Court. One of these cattle-thieves was sued on a bond, and the very vakil who was defending him told me in English he was alarmed, and he shewed alarm too). Forgery and perjury are rife; there is said to be a manufactory of forged documents. It is notorious, you can buy stamps of any age you choose. When we talk at our own tables we avoid names and speak in metaphor, or if it is anything very particular we adjourn to the garden. We take the greatest care of our letters, lest they should be " abstracted" from our desks. I was blamed the other day for posting an important letter before 4 o'clock (the hour of closing the mail).

56. There is a low moral tone prevalent among the natives of which no description can convey an idea, it must be felt. The Post office robberies are under magisterial investigation now, but I enclose a report on the Pagodas and some correspondence with a Range Officer, to prove to the Government I am not now dealing with phantasies.

57. The tone pervading the Civil Courts, the record of this case will make apparent. A defendant before me the other day urged the fact of his having been

an assessor in proof of his respectability. The vakil on the opposite side rose and said with the utmost scorn, "any one can be an assessor, a karnam, a carpenter, a judgment debtor." The particular defendant seemed to me to be a mere cooly. But the Government will see that I cannot prevent these things being said—they are blurted out before I can stop them.

58. I will give another instance. It was always a subject of wonder to me that certain Civil Court Pleaders took so prominent a part in praying the Government to keep the Small Cause Court here. They have but little business in the Small Cause Court, and I one day asked the reason of their anxiety. Mr. French rose and said, "It is a Court of Refuge your honour, for those vakils who do not happen to be popular with the Civil Judge." Of course had I anticipated such an answer I should not have asked the question, but the answer was said before I could check Mr. French. Respect is all but dead, in fact, but it concerns us all very nearly if we purpose to hold this country much longer.

59. Things are really too bad to be believed, and that constitutes our chief danger, for it postpones the remedy, and at best it is an invidious office to lay bare that in which, look at it in what way one may, there is so little to commend.

60. The tone among the pleaders, with, I am proud to state, many honourable exceptions, is essentially tricky, violent, and Tamulian. The appointments alluded to in this trial deserve the earnest attention of Government. Two of the men appointed by Mr. Goldingham are vakils of the Small Cause Court, viz., Mutusamy Ayya and Nagama Nayak. The former has not a vestige of qualification ; the latter is a passed pleader in Tamil who knows nothing of English, and was suspended by my predecessor for forgery, and my predecessor gave him a very bad character. He has scarcely any practice before me, and seems to be shunned by his brother vakils.

61. I can assure the Government I have no animosity against either of them, indeed Nagama Nayak, who is, I am told, a Tamil poet, has written a poem in my honour, and he has never given me a moment's annoyance, and the other is a good natured, polite Brahmin, perhaps a little too noisy, and that is all.

62. It is said here that at one time Mr. Goldingham would have no one but university graduates. When I asked the meaning of these new appointments, I was told* "kopum." Mr. Goldingham even refused a sunnud to Chinna Mani Ayya, a most able man. But the aspirant went down to Madras, became a High Court advocate, and then Mr. Goldingham had no choice but to hear him. It is not only against the Rules of Practice as laid down by the High Court to give these appointments to unpassed men, but the reasonable expectations of the properly qualified are baffled, a sense of injustice gets abroad, and not only that, advocacy is reduced to a very low position.

* I give the Tamil word as being more expressive than the English word, temper.

63. I will say a word here for Captain Guthrie which he could not perhaps say for himself. Captain Guthrie was in Madura in the olden time, when Mr. Mutukisna and the Europeans visited each other on terms of friendship. It is not so now, and has never been so in my time; but I do think it is greatly to Captain Guthrie's credit that he has not turned his back upon Mr. Mutukisna now that he

is in adversity, incurred, so far as I can understand, by no fault of his own. To have done otherwise than he has done would have been, in my opinion, an unworthy submission to dictation.

64. The Government will of course see that Captain Guthrie is not necessarily a conspirator, because he gets me papers connected with a cause celèbre of which otherwise I should have known but little and that little imperfectly, for the case began on the 28th May, and it was long after that when a reporter came down, and there have, even up to the time* I write, been but a few depositions printed.

* 9th July.

65. The reporter has unfortunately come too late for the scenes in court, I will therefore tell what I both saw and heard, and the Government will be able to form some idea of the tone of which I spoke above.

66. The defendant kept the Principal Sudr Amin and every one waiting 1½ hours the first day; when he did come he talked familiarly with the Principal Sudr Amin, he told the Principal Sudr Amin to be kind enough to ask the plaintiff not to tell falsehoods, and he several times threatened to take up his hat and leave the Court, while he was under examination as a witness.

67. His vakils objected to every possible thing, and I should say that if objections went on at the same rate afterwards as they did the first day, they must have amounted to thousands.

68. Mr. Scott's style was violent toexcess, he repeatedly said, I insist, to the Principal Sudr Amin, and it seemed to me that every thing was being done which could thwart the plaintiff and intimidate the Court. It is immensely to Mr. Goldingham's credit that he repeatedly checked Mr. Scott in his zeal for objecting. The above I both saw and heard.

69. I will now say what I have heard only. The defendant told the plaintiff not to look at him. The plaintiff replied, "a cat may look at a king," with a gesture of contempt. When the affair of the pamphlet came out, the plaintiff said, "Ah, you shall answer for that criminally."

70. Mr. Goldingham's evidence will speak for itself. As a witness I formed a most unfavourable opinion of him (and that without malice of any kind, I avow). The same opinion was also formed by others.

71. The Government will note how materially M. de Fondclair contradicts him. When the assertion was made, M. de Fondclair shewed by his manner his profound astonishment. Nothing was said, but I anticipated at the time the contradiction which so surely came.

72. I was myself but little in Court. The atmosphere was stifling, the heat intense. Progress was delayed by incessant objections and wrangling, and I had my own Court to look after.

73. Mr. Goldingham has for no other reason than his own personal convenience kept all the Judicial establishment in the plains in the hot weather, and I think this is a legitimate grievance which ought not to be incurred again.

74. The object of the two months' recess is, I imagine, to save us from the hot season, which is over in this District long before the 15th July.

75. When I attended the first day Mr. Scott intimated his desire that I should be out of Court while defendant was giving his testimony. It seemed a strange request, and was delivered with Mr. Scott's usual brusqueness, and it was intensely annoying to one who, like myself, had come there reluctantly, and I determined it should be put to the Court; had I not so acted I should not have known till much later on of the very conspiracy of which I am said to be a member. As soon as I refused to leave without the order of the Court; out came the reason. "Very well, we shall put it to the Court, we want independent testimony, that is all."

76. This was a flagrant insult, and I at once saw what was aimed at, and at the close of my evidence I complained to the Principal Sudr Amin of the insinuation conveyed by such an application to the Court (viz. that I was at the bottom of the case). And now I will state what must seem incredible to the Government. All the time, I may remark, the defendant was in Court, seated between his two vakils and eagerly prompting them. (Indeed the defendent throughout was a great deal in Court, considering how he put forth his "onerous public duties" as an excuse for not going into the witness-box).

77. I state on my honour that Mr. Scott rose and said that he had not intended to convey such an insinuation; the Principal Sudr Amin said that he had not contracted such an impression; and of course the plaintiff rose and at once said that I had had nothing to do with the case. I wished, notwithstanding, to have something to this effect on the record; there was a difficulty about it, but at last the plaintiff courteously came to the rescue, and asked me the question, the answer to which closes my deposition. How wise was this precaution subsequent events have proved.

78. I beg, with all due submission, to call the serious attention of Government to the discrepancies in dates which occur within Mr. Davies's case and in the order fining Mr. Mutukisna. In the 1st case the 9th June is written for the 8th, in the 2nd case the 7th June for the 27th.

79. And I make no doubt the Government will carefully see the whole of the records in this scandalous suit (particularly the list of witnesses and documents called for by the plaintiff) before they decide adversely to me.

80. As for the disappearance of the order in Aldritt's case I know nothing beyond this, that the scandal as to that affair, whether true or not, is too serious to tell.

81. Copy of the bond for 75,000 Rupees is enclosed. Government will see that the instrument is absolutely without any consideration whatever, and that the contingency is the decision of a suit. Dorasinga Tevar, the executor, is the heir presumptive to the Shevagunga Zemindary, and a mere tool in the hands of Vencatasami Nayak. It is said that Dorasinga Tevar knows nothing of Mr. Gough and has never even seen him. Mr. Goldingham says in paragraph 3 of this bond: "This bond was executed eight months after I passed my decree." The Government will judge whether that necessarily makes any difference; besides, the words are "on the final decision," which point to the High Court or the Privy Council, as the case may be. I myself really know nothing of the bond, save that it seems, till explained, to point to a bribe somewhere, and for that very reason an explanation should be sought after.

82. A curious report is rife as regards this trial, viz., that Vencatasami Nayak is to pay all costs whoever loses, on condition of not being called as a witness.

83. Mr. MacWatters gave evidence that Vencatasami Nayak was the only native he ever heard speak against the plaintiff; the plaintiff has a sufficient answer to Vencatasami Nayak's disapproval on the facts, for the said Vencatasami Nayak at the present moment is giving the plaintiff work to do. But Vencatasami Nayak was in a terrible state of alarm lest he should be called, and I am told that he retired for a time to the Shevagunga Zemindary, but what part of it my informant could not say.

84. In my cross-examination, first sentence, what I heard the plaintiff say was of course only in Court. To the question "Have you any sympathies with the plaintiff?" the answer of course ends at the word "High Court's Order." The remainder is in answer to defendant's vakil's further questions. At present it would appear as if I had volunteered to add all after the word "order."

85. Why Mr. Goldingham ever suspended Mr. Mutukisna at all is an inference I leave the Government to draw, but here in Madura, where the circumstances are best known, no one to my knowledge believes there was any *bona fide* element about it.

86. I beg in conclusion to regret that my explanation has run to so great a length. I shall not, without orders, put it on record, and the Government will note it is all written by my own hand in official form, so that they are free to treat it as a private or public document. I am ready to produce my authorities and to indicate sources of information when called upon to do so.

87. The whole reply is most painful to me, and I hope that the Government will not think that I am wanting in respect for my seniors because of these peculiar circumstances. I can assure the Government that I well know how necessary discipline is, and that no one better than myself can realise the fact that we must throw over even liberty and independence, two admirable things, to preserve good Government. And that we are in India but a handful governing millions of aliens, and how desirable, and how much more pleasant it is to live in harmony together, are facts too obvious to escape me.

88. The plaintiff is nothing whatever to me, and I bear the defendant no malice after all he has done to injure me. That I am not at peace with him is, I submit, not my fault; and my justification I will borrow from Montesquieu's L'Esprit des Lois, "He is not to blame who declares war, but he who renders war necessary." And I have never, the Government may be sure, quarrelled privately with Mr. Goldingham, much incensed though I have been, and I have never had an official difference with him, so that it has been said here, "he has never been able to catch Smaith."

89. I have simply kept myself apart, seeing we were not calculated to get on well together, and that is all. My detestation of all injustice has by some means become known to plaintiff, who summons me as one witness among almost all that are or have been connected with the District; but it suits the defendant's purpose to set a "trap" only for myself and Captain Guthrie, and brand us as conspirators, while Mr. Davies, to his infinite regret, is not allowed to open his mouth.

90. Were Mr. Goldingham for one moment sorry or ashamed I should compassionate him; but while every one here except himself has felt the shame attending the scandal he alone has caused, Mr. Goldingham is, I am informed, exultant and triumphant, boasting of his "traps" so deftly baited, and his two victims, and how anxious the Government are to see him at Ootacamund. Wherefore he starts on the 11th instant, though the recess does not commence till the 15th.

91. Ten enclosures accompany my letter.

No. 1. Proceedings of the Civil Court of Madura and the High Court with reference to Mr. Mutukisna.

No. 2.—Copy of the bond for 75,000 Rupees.

No. 3.—Judgment in 168 of 1872, Small Cause Court, Madura.

No. 4.—Judgment in 135 of 1872, Small Cause Court, Madura.

No. 5.—Correspondence with Range officer, Dindigul.

No. 6.—Second letter to the same.

No. 7.—Evidence in 168 of 1872, Small Cause Court, Madura.

No. 8.—Evidence in 135 of 1872, Small Cause Court, Madura.

No. 9.—Report on proposed Devastanum Bill.

No. 10.—Copy of an extract from the "Madras Times" of July 5th 1872.

92. I confidently leave my explanation in the hands of the Government.

Enclosure No. 1.

Stamped
Eight Annas.

Proceedings of the Civil Court of Madura, under date the 6th March 1871.

It is now eighteen months since Mr. Mutukisna, a Vakeel of this Court, has ceased to attend the bar of the Court. Rumour proclaims that he has gone to Europe, but he has not thought fit to represent the fact to the Court, either personally or in writing, when leaving Madura as all other Vakeels are accustomed to do when desirous of absenting themselves under other circumstances. Although Mr. Mutukisna is an Advocate of the High Court, he is still a practising Vakeel of this Court under Regulation XIV. of 1816, and, like the other Vakeels, subject to this Court's control, and the Court cannot allow so marked an instance of disrespect to pass by unnoticed. The order therefore of this Court is, that Mr. Mutukisna is suspended from practising as a Vakeel of this Court until he offers an ample apology, and until he pays a fine of Rupees 50, under the provisions of Section XIV. of the above Regulation.

A copy of this Proceedings will be sent bearing to Mr. Mutukisna.

(True Extract.)

(Signed) J. D. GOLDINGHAM,
Civil Judge.

Order.

In reference to the Proceedings of this Court, dated the 6th March 1871, the Nazir is directed to collect the fine of 50 Rupees imposed on Mr. Mutukisna for neglecting to attend in Court and it is further ordered that until Mr. Mutukisna makes a suitable apology for his

disrespect in not reporting his departure from Madura, he is suspended from practising as a Vakeel in this Court and in the Courts subordinate thereto.

27th June 1871.

(Signed) J. D. GOLDINGHAM,
Civil Judge.

(True Copies.)

No appeal lies from these orders imposing fine under Clause 2, Section XV., Resolution XIV. of 1816.

(Signed) RAMASWAMI PILLAI,
Acting Sheristadar.

(Signed) J. JOHNSON,
Head Writer.

Stamped one Rupee.

No. 1,205.

Proceedings of the High Court of Judicature at Madras, 13th July 1871.

READ Petition, dated 10th instant, from Mr. H. F. Mutukisna, an Advocate of the High Court, practising in the Civil and Session Court of Madura, appealing against an order of the Civil Judge, suspending him from practising in the said Court, and imposing upon him a fine of Rupees 50, on the ground that he had been guilty of disrespect to the Court in quitting Madura and proceeding to Europe without reporting the same to the Civil Judge.

(H. E. Petititon, dated 10*th July* 1871.*)*

THE High Court are of opinion that the facts before them in this case disclose great impropriety of conduct on the part of the Civil Judge, and that the order suspending the petitioner from practise and inflicting a fine of Rupees 50 is altogether illegal. Taking it, as the Civil Judge supposed, that Mr. Mutukisna was liable to be dealt with, as a Vakeel under Regulation XIV. of 1816, it was an extremely harsh proceeding to impose in his absence so serious a punishment as that of fine and suspension from practising, there being nothing to show inattention to business or disrespect to the Court on the part of Mr. Mutukisna.

2. It is, however, a matter of surprize to find that the Civil Judge should have entertained the belief that he possessed the power to pass such an order. The section of the Regulation, under which the Civil Judge professed to act, has been rendered inapplicable by Act XX. of 1853, Section 2, and that Act did not empower the passing of such an order against a Vakeel in the circumstances appearing here.

3. Another ground of illegality is that Mr. Mutukisna was empowered to practise not as a Vakeel, but as an enrolled Advocate of the High Court. This right was declared by the High Court in its Proceedings of 31st October 1863, which the Civil Judge must have been aware of, and as such an Advocate, Mr. Mutukisna did not commit even an irregularity in absenting himself without leave.

4. In the opinion of the High Court, the Civil Judge has laid himself open to grave censure for the course he has taken in this case. The order appealed against is illegal and must be annulled, and the fine levied refunded to the petitioner.

Ordered accordingly.

(Signed) T. WEIR,
Acting Registrar, Appellate Side.

(True Copy.)

(Signed) A. P. W. BEGBIE,
Acting Deputy Registrar, Appellate Side.

Proceedings of the Madras Government, Judicial Department,
12th October 1872.

Stamped.
Eight Annas.

Proceedings of the Civil Court of Madura, dated the 26th June 1871.

Read Yadast put in by Mr. H. F. Mutukisna, praying for copies of orders passed by the Civil Court relating to the filing of Vakaluts by him and to his suspension.

Order.

As soon as petitioner has paid the fine, and made the apology required of him, the Court will grant an authenticated copy of its order to enable him to appeal against it if he wishes it.

The other copies will be granted on a separate application.

(True Extract.)

(Signed) J. D. GOLDINGHAM,
Civil Judge.

(True Copy.)

(Signed) RAMASWAMI PILLAI,
Acting Sheristadar.
(Signed) J. JOHNSON,
Head Writer.

My Dear Sir,
Madura, *27th June* 1871.

I received your note in Court, and being busy at the time I could not reply at once.

I regret that I am unable to obtain for you copies of any of the orders referred to in your note. I must repeat my suggestion that you should apply for the copies yourself.

Your's sincerely,
(Signed) S. SUBRAMANIEN.

Enclosure No. 2.

This Indenture made the twelfth day of August one thousand eight hundred and seventy, between Thoorasinga Taver of Ootamanur in the Shevagunga Zemindary on the one part, and Percy Bloomfield Bottan Gough of the firm of Messrs. Lecot and Company of Madras on the other part.

Whereas a suit has been instituted by me in the Civil Court of Madura in Original Suit No. 2 of 1869, against Kathama Nachiar, Ranee of Shevagunga, and others, for a Decree declaratory of my right to succeed to the Zemindary on the death of the said Ranee, and whereas a Decree has been passed in the said Civil Court in my favour declaring such right of succession, and whereas the said Decree has been appealed against, now this Indenture witnesseth that I the said Doorasinga Taver for myself and my heirs do hereby bind myself to pay you the said Percy Bloomfield Bottan Gough the sum of Rupees seventy-five thousand (75,000) on the final decision in the said Declaratory Suit in my favour and on my obtaining possession of, and actually succeeding to, the said Zemindary. Provided always that should my right to succeed to the Zemindary be settled in the way of compromise, I do hereby bind myself and my heirs to pay to you the sum of ten thousand of Rupees upon such settlement or compromise.

(Signed) THOORASINGA, *alias* GOURINALLABA TAVER.
Witnesses.
SOOBBANARANA IYEN, Son of ANNACOOTTY IYEN *alias* THENAKARIEN, residing at Madura, Ammansunnudy Street.
RAMASAMIEN, Son of VENKUTRAMIEN.
Writer of the Bond.
M. VEERASAMY NAIDOO of Madura.
2nd Sheet.
(Signed) THOORASINGA, *alias* GOURINALLEBA TAVER.
Stamp, Rupees 162-8.
Register Original Suit No. 141 of Book 6, Volume III., page 217.

15th August 1870.
(Signed) P. KRISTNASAMY IYER,
Sub-Registrar.

I the obliger of the obligation do hereby agree that in the event of this obligation not being duly satisfied, the amount secured thereby may be recovered in a summary way under Section 53, Indian Registration Act 1866.

(Signed) THOORASINGA TAVER, *alias* GOURINALLABA TAVER.

13th August 1870. (Signed) P. KRISTNASAMY IYER, *Sub-Registrar.*

Seal.

25th August 1870. (Signed) P. KRISTNASAMY IYER, *Sub-Registrar.*

ENCLOSURE No. 3.

MADURA SMALL CAUSE COURT.

SUIT No. 168 OF 1872.

Chokkalinga Pillay ... ... *Plaintiff.*

Versus

1. Pusari Rama Boyan
2. Thandava Boyan
3. Periya Bomma Boyan, and
4. Anumantha Boyan

} *Defendants.*

Judgment.

This case discloses a not very creditable state of things in the Department Public Works at the period of the transactions.

The plaintiff sues to recover 100 Rupees paid to the four defendants who contracted to supply gravel and to do earth-work on the 11th mile stone between Madura and Dindigul. The plaintiff says the work was not done, and the defendants reply that it was completely executed. The burden of proof rests on the plaintiff, and he has, in my opinion, failed to establish his case though he has called his brother-in-law, a Department Public Works Overseer, a Road Maistry, also a relative of the Overseer, and a Lascar employed under the Overseer.

The Overseer who gave his evidence very reluctantly, who had to be rebuked more than once by the Court for fencing with the questions, says that he "cannot say how much the defendants undertook to repair, nor how much they did," and to the same effect speak the Road Maistry and the Lascar.

Apart from the fact of the case having completely broken down, it is a remarkable fact, which plaintiff himself cannot explain, that the breach of contract occurred on 31st January 1869, and was then extended ten days, which would bring us to 10th February 1869, while there has been no action till now, at such a rate of interest as five per cent.

Judgment is given for defendants with costs.

DINDIGUL,
12th March 1872. (Signed) J. F. SNAITH, *Acting Judge.*

The notes of evidence and judgment to be sent to Mr. Lyon, for such notice as he may think they deserve.

(Signed) J. F. SNAITH, *Acting Judge.*

ENCLOSURE No. 4.

MADURA SMALL CAUSE COURT.

No. 135 OF 1872.

Parasuraman Chetti ... ... *Plaintiff.*

versus

Maruthanayakam Pillay. ... ... *Defendant.*

Judgment.

THE plaintiff states that the defendant and one Ramalingam Pillay undertook to complete certain works on contract in the taluq of Pulney, and that he (plaintiff) was to have a half-share in the profits which defendant derived from such contract, as a remuneration for the labour of superintendence on the part of plaintiff.

The defendant's profits are fixed at Rupees 861-1-0 and plaintiff therefore sues to recover Rupees 430-8-6, of which sum it is alleged that Rupees 60-8-6 has been paid and the remainder Rupees 370 is now due.

The defendant replies that the whole thing is false, and that the suit is instigated by his enemy Ramalingam Pillay.

In support of plaintiff's case, plaintiff calls—

I.—Mr. Burby.

II.—Maruthanayagam Pillay, the defendant.

III.—Vetti Velu Pillay.

IV.—Ramalingam Pillay.

Defendant calls only—

V.—Vava Rastan.

Mr. Burby says that plaintiff was active with the defendant in looking after the work, and that plaintiff had a part of defendant's share; the witness does not know how much. Neither does witness tell us how he knows that fact, and it will afterwards be seen that plaintiff's activity admits of another explanation, viz., his having been and being to this day a servant of Ramalingam Pillay's.

The 2nd witness (the defendant himself) denies on oath that he promised plaintiff a share, and he states that Ramalingam Pillay still owes him Rupees 98 odd, and that plaintiff is his (Ramalingam Pillay's) servant; that he brought a suit (No. 2108 of 1871) in the Small Cause Court against said Ramalingam Pillay, who put in a forged receipt, which was not considered proved, and that plaintiff was a witness to the receipt then produced; and that he (defendant) eventually won his case.

The 3rd witness deposes that he was present when plaintiff and defendant entered into a contract to divide the latter's share in the work. No document was drawn up, and Govinda Raju was also present (called in this case, but did not give evidence).

In cross-examination witness says that he himself had nothing to do with the contract, that Ramalingam Pillay's name alone was entered on the public records, and further says "defendant agreed to advance money. Plaintiff and Ramalingam Pillay are friends. Plaintiff works under Ramalingam Pillay without pay, and for the defendant, as defendant's servant."

The 4th witness is Ramalingam Pillay himself. He says in brief: "The estimates were 14,000 Rupees. Defendant was half-sharer with me. I took defendant because I was in want of funds. Defendant was also to look over the work. Defendant knows nothing of Department Public Works work and employed the plaintiff to superintend for him. I did not find the money and was to have full profits. Defendant found the money and was to pay half his profits to plaintiff; that in May defendant and himself settled accounts amicably, and then 430 Rupees were found due by defendant to plaintiff as wages of superintendence; that defendant paid 50 Rupees and promised the rest in two or three months." While such is his examination-in-chief it is not necessary further to dwell upon what he said in cross-examination.

The defendant called but one witness, who proves two things, viz., that plaintiff was paid a salary, and that Ramalingam Pillay took oath in Mariamma Kovil, a fact which Ramalingam Pillay denied.

After a full consideration of the evidence in this case, I can come to no other conclusion than that the whole suit is false, and that its instigator and mainstay is the Contractor Ramaligam Pillay.

We are asked to believe that the defendant who found the money had to share his profits with the plaintiff, because plaintiff superintended the work, it is said, on defendant's behalf, while the contractor who found no money had full profits. But capitalists make harder bargains than this. And the arrangement improbable in itself is not proved.

The motives prompting the plaintiff are plain when we look into Ramalingam Pillay's evidence and conduct.

Ramalingam Pillay was sued in this Court by defendant in No. 2108 of 1871, and put in a receipt as a defence to the action. Ramalingam Pillay was then referred to oath as to the genuineness of the receipt denied by the plaintiff, which he failed to take, and eventually defendant won his case. Ramalingam Pillay himself says that defendant has a warrant out against him, and that he and defendant are still friends !

Ramalingam Pillay was next sued by 1st witness with reference to these very contracts. Ramalingam Pillay was told by 1st witness's father to pay certain money due by Ramalingam Pillay to 1st witness to the defendant in this case.

It appears that Ramalingam Pillay showed Mr. Burby, senior, a receipt which he handed over as being a receipt of this defendant, and with which Mr. Burby, senior, was for the time satisfied.

The defendant thereupon sued 1st witness's father, who at once paid the money. 1st witness then sued in this Court in 2211 of 1871, to recover the money which Ramalingam Pillay had failed to pay. This defendant was then a co-defendant, and he distinctly denies having given the receipt which was produced. The Court pronounce the receipt a forgery, and Ramalingam Pillay was adjudged to pay the claim of plaintiff with all costs.

Another suit connected with these contracts is 168 of 1872, where Ramalingam Pillay's brother brought a suit, in which some scandalous disclosures were made, and which was held to be completely false.

Copies of Judgment and Evidence were sent to the Range Officer, and the same is now ordered with regard to this case, that the Department may know the characters of their Contractors and Overseers and their dealings.

I have not the slightest doubt that in these suits the Contractor has as in Suit No. 135 of 1872, committed deliberate perjury, and that in Suits Nos. 2108 and 2211 of 1871 he has uttered forged documents well knowing them to be forged.

Plaintiff in this Suit is only his tool, and judgment is given for defendant with all costs.

Pronounced in open Court this 3rd day of April 1872.

(Signed) J. F. SNAITH,
Acting Judge.

ENCLOSURE No. 5.

From J. F. SNAITH, Esq., Acting Judge of the Small Cause Court of Madura, to H. LYON, Esq., Assistant Engineer in charge, 2nd Range, Dindigul, dated Dindigul, 12th March 1872, No. 20.

I have the honour to forward, herewith, the copy of the Judgment and Notes of Evidence in Suit No. 168 of 1872, on the file of this Court, for such notice as you may think they deserve.

From H. LYON, Esq., Assistant Engineer in charge of 2nd Range, to J. F. SNAITH, Esq., Acting Judge of the Court of Small Causes at Dindigul, dated Dindigul, 14th March 1872, No. 500.

I have the honour to acknowledge the receipt of your letter No. 20 of 12th instant, forwarding copies of the Judgment and Notes of Evidence in Suit No. 168 of 1872 on the file of your Court, and to express my obligation to you for thus enabling me to be on my guard against a most discreditable course of proceeding connected with the execution of contracts in this Department.

2. I fear the practice of Overseers getting work, of which they have charge and for the proper execution of which they are responsible, carried out by contractors who are their relatives, is far too common in the Department, but owing to the fact that many of the office people are themselves connected with the Overseers or Contractors, the secret is generally well kept from the Range Officer.

3. It so happens that the plaintiff in the Suit above referred to is, I have just discovered, a partner in a contract for the road now under construction in the Pulney road. Had your letter not reached me, I should in all probability have not discovered this fact.

ENCLOSURE No. 6.

From J. F. SNAITH, Esq., Acting Judge of the Small Cause Court of Madura, to H. LYON, Esq., Assistant Engineer in charge, 2nd Range, Dindigul, dated Dindigul, 3rd April 1872, No. 25.

In continuation of my letter No. 20, dated 12th March 1872, I have now the honour to send you copy of the Notes of Evidence and Judgment in Suit No. 135 of 1872, for such notice as you may deem requisite. I particularly beg to call your attention to Contractor Ramalingam Pillay's evidence* and his relations with the Overseer Velayoodam Pillai.

* But Mr. Lyon told me privately that he found the Head Accountant related to both Overseer and Contractor.
(Sd.) J. F. SNAITH.

ENCLOSURE No. 7.

EXTRACT from the Judge's Note Book of Evidence of the Court of Small Causes of Madura, under date the 12th March 1872.

SUIT No. 168 OF 1872.

I. *Chokalingam Pillai.*—I paid the four defendants 100 Rupees. The contract was in writing and is produced. The agreement was to pay 5 per cent. So I lost my contract.

Cross examined.—I got the contract in 1869. The contract was cancelled in May or June 1869. My contract was for 1 mile. I received 592 Rupees from Government for making tunnels and water-courses.

By Court.—Those have no connection with the contract the defendants made with me. The Overseer is my brother-in-law. My brother-in-law was never Overseer in Pulney. Mr. O'Rattigan gave me the contracts.

II. *Velayoodam Pillai.*—Am an Overseer of Dindigul Taluq. The work was to supply gravel and do earth-work in 11th mile on Madura road. They have done no work. The contract was cancelled by Mr. Hayne. The contract time was extended ten days. I measured the work in December 1868 and March 1869. I recommended the plaintiff to Mr. O'Rattigan. Mr. O'Rattigan knew the plaintiff was my brother-in-law. Mr. O'Rattigan sent me to survey my brother-in-law's work.

Cross examined.—1,000 Rupees a mile was the estimate allowed. In July 1868, my brother-in-law had the contract. I was Overseer. When I went to Pulney my brother-in-law had 1 mile contract; the allowance was 1,000 Rupees a mile; I was then Overseer. When I was re-transferred from Pulney, my brother-in-law also came here. In 1870 I was transferred to Madura. In May 1869 the plaintiff's contract was cancelled. The contract was cancelled because one-third of earth work and gravel work was not done. In May 1869 I was transferred to Madura. In 1870 I was not transferred to Madura; there I made a mistake. As soon as I was transferred, the contract was cancelled. I am not interested in my brother-in-law's contract. It is not the duty of the Contractors to inform me about the Sub-contractors. It is not my duty to inspect how much each labourer has done per day for the Contractor. I only see how much the Contractor has done. The plaintiff has done 800 Rupees work in the 11th mile-stone. I passed it. My brother-in-law's work. I cannot tell how much each labourer has done of the 800 Rupees work. I do not know whether the defendants worked or not. On the 11th mile 217 Rupees work was done in December 1868, and 592 Rupees in March 1869. I was not summoned to produce this book (measurement book). I was not present when the Contract deed sued on was entered into.

I cannot say by whom the foundations for these bridges and tunnels were dug. The defendants can dig foundations. I have accounts of three measurements. To this mile I may have gone ten times. I do not remember the dates when I reported the Contractor had not done his work. I did not speak of him as my brother-in-law. No answer was received I think.

Re-examined.—When a Contractor has not done the work I must so report; only one-third mile was not done: two-thirds had been repaired by gravel. I cannot say how much they (the defendants) undertook to repair. I cannot say how much they did. I cannot say how much was done in the interval of my transfer and the cancelment of the contract. The plaintiff's contract

was cancelled for delay. I cannot say what was done by the subsequent Contractor; nor what he undertook to do.

By Court.—I cannot explain the plaintiff's delay in bringing this Suit.

The witness has given his evidence in a very reluctant and discreditable way, and without a sense of shame.

III. *Arab Sa.*—The defendants admitted having received 100 Rupees. I do not know how much work in the 11th mile-stone these defendants undertook to do. I am a Lascar under the Overseer, last witness. I do not know whether they (the defendants) worked or not.

IV. *Rengasami Pillai.*—I was a Maistry in Department Public Works in 1868 and 1869 and 1870 and 1871 also. The defendants admitted to me they had received 100 Rupees. The defendants have not done the work.

Cross examined.—I have not attested the bond. I have not married the Overseer's daughter. I am not the Overseer's sister's son. The plaintiff is my relation. I call him brother. The Overseer's brother's daughter is married to me.

The Overseer did not recommend me. I am not under him now. I received no summons. The plaintiff asked me to come. I cannot say how much work was done by each labourer on the road. I was removed because Government had no funds. I am not employed in Department Public Works now.

(True Extract.)

(Signed) J. F. SNAITH,
Acting Judge.

ENCLOSURE No. 8.

EXTRACT from the Judge's Note Book of Evidence of the Court of Small Causes of Madura, under dates the 22nd and 27th March 1872.

SUIT No. 135 OF 1872.

I. *Mr. Burby.*—Know the plaintiff and the defendant, Ramalingam Pillai; undertook to repair the tank of Vyapoori and the Virupachi road, and also to repair the tank called the Chinnacolam, and another called Periyakolam. The defendant was a partner with Ramalingam Pillai. Defendant had quarter share in the contract I think of the Vyapuri tank. I had half share in the repair of the Vyapuri tank. Plaintiff had a part of defendant's share. I do not know how much. I and Ramalingam Pillai settled the accounts three or four years ago. We executed the contract in 1869. My half share of the profit was 700 Rupees odd in the Vyapuri tank. Plaintiff was active with the defendant in looking after the work.

Cross examined.—I was a partner with Ramalingam Pillai and assisted him.

II. *Maruthanoyagam Pillai.*—Defendant Ramalingam Pillai took certain contracts for roads and tanks in Pulney in 1869. The estimate for the works exceeded 10,000 Rupees. I had half the contract with Ramalingam Pillai. Mr. Burby had a share in the repair of the Vyapuri tank. The contracts for both roads and tanks were completed. I worked myself for my share. I did not conduct my business through plaintiff nor promise him a share. Velayoodam Pillai was the Overseer, he is not my brother-in-law, in fact no relation at all. This suit is brought at the instigation of Ramalingam Pillai. I got 600 Rupees for my share of the profits. I am not prepared to deny the truth of the plaint before the kovil. I have not paid Rupees 60-8-0 on account as alleged. I do not consent to plaintiff's oath. Both plaintiff and I live at Pulney. Ramalingam Pillai at Madura.

Cross examined.—I had a share in all the work Ramalingam Pillai undertook, and he still owes me 98 Rupees odd. The plaintiff is the servant of Ramalingam Pillai. I brought a suit in No. 2108 of 1871 in this Court against Ramalingam Pillai. Ramalingam Pillai then put in a forged receipt. Plaintiff attested that receipt. Ramalingam Pillai failed to prove the receipt.

Re-examined.—The case was decided on the merits in my favour. Ramalingam Pillai I have cited as a witness.

Continued, March 27th.

III. *Vethi Velu Pillai.*—I am a contractor living at Madura. I had a contract once at Pulney. In 1869 Ramalingam Pillai had a contract at Pulney. Mr. Burby was a joint-contractor and also defendant in private. Plaintiff was a joint-contractor with the defendant. The defendant had a moiety of the contract from Ramalingam Pillai and plaintiff had a half share with defendant. Was present when plaintiff and defendant entered into the contract in February 1869. No document was drawn up. Engagement was made in defendant's house. Govinda Raju and myself were present.

Cross examined.—Ramalingam Pillai's name alone was entered on the public records. Defendant agreed to advance money. Ramalingam Pillai and the plaintiff paid nothing. Mr. Burby contributed as I heard. For this advance defendant had a half share. I had nothing to do with this contract. The Overseer Velayoodam Pillai is my uncle. Ramalingam Pillai is the brother-in-law of Velayoodam Pillai the Overseer. Ramalingam Pillai my uncle. Plaintiff and Ramalingam Pillai are friends. Plaintiff works under Ramalingam Pillai. He works under Ramalingam Pillai without pay. He works for the defendant. The plaintiff is the servant of the defendant. Mr. Fonceca was the Overseer at the time. He is now at Pulney.

Re-examined.—In 1868 I completed my contract and was waiting for another in 1869. Defendant engaged plaintiff to do his work under Ramalingam Pillai, and defendant engaged to pay plaintiff half his profits under the contract.

IV. *Ramalingam Pillai.*—I took a contract from Government in 1869 at Pulney. Two roads and two tanks were to be repaired. Estimate was about 14,000 Rupees. Defendant was half sharer with me. Mr. Burby had half share with me in the Vyapuri tank alone. No document was executed between me and defendant. I took defendant as I was in want of funds. He was also to look over the work. He knows nothing of Department of Public Works work. Plaintiff superintended for him. I live at Madura. Defendant in defendant's house agreed to pay plaintiff half of his profits for the work. Defendant and myself got a profit of 1,722 Rupees. I did not find the money and had full profits. Defendant found the money and was to pay half his profits to plaintiff. Mr. Burby sent his servant. Defendant is a Notakar. As he is a Government servant he could not attend to the work and knew nothing about it. In May defendant and myself settled accounts. Plaintiff was present. Accounts were actually settled. I paid the Sirkar cheques to defendant. 430 Rupees was found due by defendant to plaintiff as reward for superintendence. Defendant paid 60 Rupees and promised the rest in two or three months. Till December 1869 plaintiff worked for defendant.

Cross examined.—I am brother-in-law of Overseer Velayoodam Pillai. Vethi Velu Pillai is my brother-in-law. Defendant sued me in No. 2,108 of 1871. I put in a receipt as a defence. Plaintiff signed as a witness to that receipt. Govinda Raju also signed the receipt. He is a witness in this case. I was referred to oath about the receipt; the then plaintiff did not come to witness the oath, and so I did not take it. Defendant eventually won the case. I was brought to Court on summons. There is a warrant out against me at defendant's instance. Defendant and I are friends still. On the 8th January plaintiff was my intended witness. A man must work and find money too to get a share in the contract. I gave no money. Plaintiff gave no money. Defendant advanced all except what Mr. Burby gave. Defendant advanced perhaps 1,000 Rupees in the first instance. I have no accounts. Defendant has all the accounts. Plaintiff is not working for me now. He is now a servant under me, and has been since 1869. I do not know if plaintiff possesses any land; he has a house of his own; how it is his I do not know. I do not know whether the house belongs to him or not. I did not take oath in Marri-ammen kovil about an embezzlement of 1,000 Rupees. I did not bind myself to pay 90 Rupees to defendant after taking the oath. I did not pay plaintiff any salary on the day of settlement. I do not remember taking other contract work in 1869. I superintended all the works of the four contracts. My brother Chokalingam Pillai worked under me on a salary of 15 Rupees a month. Plaintiff was not a salaried servant under any of the contractors. Mr. Burby sued me.

I produced a receipt which was pronounced a forgery. The receipt then produced was signed by Varada Raju, a relative of Govinda Raju. The account produced is in my brother's handwriting. The word salary is there used as applied to plaintiff. No. II. also is in my handwriting. In No. III. the salary of plaintiff is mentioned. It is in my brother's handwriting. Nos. I., II., III. are memorandums taken at the time the settlement took place. Plaintiff was then present. My brother brought a suit in this Court in No. 168 of 1872. I do not know whether Overseer Velayoodam Pillai gave evidence or not in that case. For the last one year my brother and myself have lived separately. I do not know whether plaintiff is indebted to defendant or not.

Re-examined.—I came to Court on defendant's summons.

Nothing can be more disgraceful than the above witnesses conduct and testimony.—*Vide* Suits Nos. 168 of 1872, 2,108 and 2,211 of 1871.

FOR DEFENDANT.

V. *Vava Ravuthan.*—I am Abkarry Contractor at Pulney. I have a capital of 40,000 Rupees. Know all parties. Was present at settlement of accounts with all these parties. At the time of settlement plaintiff's salary was settled also. It was 10 Rupees or 8 Rupees I do not remember which. Ramalingam Pillai took oath in Marriammen kovil. I do not know for what account.

Cross examined.—I pay 19 Rupees income-tax. I was summoned.

(True Extract.)

(Signed) J. F. SNAITH,
Acting Judge.

ENCLOSURE No. 9.

From J. F. SNAITH, Esq., Acting Judge of the Court of Small Causes, Madura, to H. WIGRAM, Esq., Acting Registrar of the High Court, Appellate Side, Madras, dated Madura, 18th June 1872, No. 44.

With reference to the Circular of the High Court, dated 19th March 1872, No. 532, forwarding the Proceedings of the Madras Government, dated 31st January 1872, No. 118, Judicial Department, requesting me to communicate my "opinion on the Draft Bill prepared by the Honourable V. Ramiengar for the protection and due appropriation for the purposes for which they were made, of all Hindu and Mohammedan religious endowments, and also on any points not dealt with therein, on which the existing law may be considered to require amendment," I have the honour to submit the following remarks for the information of the High Court :—

2. The present Bill will, if passed, be of great service, but I am of opinion that nothing save management by Government Covenanted officials will prevent abuses. The consequences of passing Act XX. of 1863 were so natural that the intentions of the Government were misrepresented, and it has been said that the object was to destroy the Hindu religion. The giving of the Pagodas to native management was an abnegation of a duty analogous to non-intervention by England in European politics.

3. The state of things which prevails in Orissa prevails also in Madura, and grave discontent thereat obtains among the native community. To quote specific instances as reported :—

I.—At Alagar Covil, the Committee and Manager have lent 20,000 Rupees to one who is characterized as a "beggar."

II.—The present Madura Manager's credit was well nigh exhausted, and the man was on the point of being arrested for debt, but his credit became at once elastic on his appointment as Manager.

III.—The Madura Pagoda Committee have lent 30,000 Rupees to a petty Zemindar who is notoriously on the verge of bankruptcy.

IV.—But the money does not suffice Quite recently jewels worth 8,000 Rupees have been abstracted from the Minakshi Pagoda ; yet no offenders have been brought to justice. All that has been done is to take Kararnamahs from certain suspected Pagoda servants.

V.—Warning of the great robbery in 1867 or 1868 was given to the Committee and Manager, and the robbery was nevertheless successful. On this occasion about 17,000 Rupees were abstracted gradually from the Minakshi Pagoda by a hole made in the wall. Not only was warning given, but the course adopted required months to complete the robbery. It will be seen that if the above reports be as true as there is too much reason to believe, that the misappropriation is but thinly veiled ; and that to be a "Manager" in India is akin to being a Russian "Protector," and some natives use the English word quite commonly and seem very anxious to have an appointment in that capacity. The word here is almost a Tamil word, with a curious signification which would not be understood in England.

4. I have quoted specific instances above merely because I observe that the Secretary to the Government of India in his letter to the Officiating Secretary to the Government of Bengal, dated 24th January 1863, No. 46, paragraph 2, remarks that the allegations contained in certain petitions "are set out in very general terms, and that they are not supported by specific instances of abuse or mismanagement," and he adds, "His Excellency in Council does not accordingly think that it is advisable to proceed at once to legislate on the subject." But specific instances could, without difficulty, be multiplied as regards Madura, where the Pagodas are held in great veneration, and are resorted to by pilgrims from all parts of India.

5. The present state of things exists because Act XX. of 1863—public opinion being inoperative—is powerless to provide a remedy, and it would be urgent that some measure be passed without delay, if it were only to prevent money obtained wrongfully being employed to wrong ends.

6. The members of the Auditing Committee should, I think, be appointed only for one year at a time, with power of being re-elected (Section 20).

7. With regard to Section 17, I am myself favourable to the remuneration of Trustees, even handsome remuneration, but it is not approved of by native opinion, so far as I have been able to ascertain it.

8. The Bill proposes that the Committee for auditing accounts be appointed by the Civil Court (Section 19) ; but if Government really desire to sever their servants from connection with Pagodas, they could secure this object more effectually by having the Auditing Committee elected by the people.

The Auditing Committee should, in my opinion, then elect *one* Trustee for life. Section 13 proposes three Trustees for each elective trust, but there could be no disagreement if there were but one Trustee, and over him the Auditing Committee would be a sufficient check.

Not only is the inaction of Councils proverbial, but Pagoda history discredits divided management, while it proves the disadvantages of unanimity of purpose ; for the management of the Menakshi Pagoda by Teekaram Davajee, or by the Sethupaty of Ramnad, or by Tirugnana Sammantha Moorthi Pandaram is cited even to this day with approbation.

Enclosure No. 10.

FROM THE "MADARS TIMES," FRIDAY, July 5, 1872.

The Madura Case.

To the Editor of the "Madras Times."

Sir,

My attention has just been drawn to an article in your paper of the 18th ultimo, commenting on my case against Mr. Goldingham. As far as I am concerned I am quite content to leave Mr. Goldingham's orders, the order of the High Court reversing them, and his own deposition to speak for themselves. But I feel it my duty to avail myself of the first opportunity most emphati-

cally to deny that any member of the public service had anything to do with the institution or conduct of the suits, or that they in any way acted in concert with me so as to make use of it to drive Mr. Goldingham from the district. I am not even on visiting terms with any of them (exceptions), and have no sort of personal intercourse with them. I consulted, as I had a right to consult, my legal advisers. Beyond this I and I alone am responsible for this action. For obvious reasons I do* wish to say anything about your remarks on the Principal Sudder Amin's conduct, but would it not be as well to wait till all the records are published? I shall feel obliged by your inserting this in your earliest issue.

* The word *not* is clearly omitted by mistake.

I remain, &c.,
(Signed) HENRY F. MUTUKISNA.

No. 40-B. From Captain T. K. GUTHRIE, to the Acting Under Secretary to Government, Fort Saint George, dated Madura, 4th July 1872.

In accordance with the Order of Government No. 868, dated 24th June, I have the honour to submit the explanation called for.

2. Mr. Goldingham in his letter to Government expresses a strong suspicion that I have materially aided and abetted Mr. Mutukisna, Plaintiff in a Civil Suit against him, and proceeds to connect me with what he terms a "conspiracy."

3. I.—That I volunteered testimony on a certain charge against Mr. Goldingham.

Reply.—I have never on any occasion volunteered evidence, for the ample reason that I could give none; Mr. Goldingham grounds his assertion on the story of a spy (Mr. Mutukisna's Gomashta).

4. II.—That I instituted an inquiry through a Police Constable into the matter of the said charge on behalf of Mr. Mutukisna.

Reply.—I can most positively assert that I caused no inquiry by a Constable or by any one else into this or any other matter of difference between Mr. Goldingham and Mr. Mutukisna; this accusation also is founded on the story of the same spy and its falseness is worthy of its source.

5. III.—That I urged on Mr. Mutukisna to file his Suit even against his own wish.

Reply.—This again is as much without foundation as the other tales. I have never at any time incited or induced Mr. Mutukisna to bring this Suit by act or speech; there was, to my mind, no reason why I should do so, and I can only put down Mr. Goldingham's fancy to the working of a morbid imagination. Mr. Mutukisna has been alone in the matter from first to last as far as I know, for he has complained to me, as the only old European acquaintance he had in the district, that even I would give him no assistance or advice.

6. IV.—That I have had several interviews with Mr. Mutukisna since the commencement of the Suit, and before; that I had seen copies of the issues and list of witnesses which I had sent to Mr. Snaith, and, consequently, had evinced an unusual degree of interest in the Suit.

Reply.—I knew Mr. Mutukisna before he went to England, when he was received in every European officer's house in the station, except Mr. Goldingham's (but even that gentleman called on him). When he returned from England all the officers had been changed except myself and Mr. Goldingham. During his absence nothing had occurred to cause me to drop his acquaintance. We have

exchanged visits frequently, and he has mentioned very often his cause of complaint against Mr. Goldingham, but as it was no matter of mine whether he filed a Suit or not, I said little to him on the subject, but listened to what had to say as courtesy demanded. I cannot see on what grounds my conduct towards this native gentleman should have been different or in any way altered by the fact of his having a complaint against Mr. Goldingham. Mr. Snaith desired me to get him a copy of the issues and list of witnesses; I asked Mr. Mutukisna for them and sent them on, together with other papers which I had not asked for. Mr. Snaith's evidence in regard to these papers is correct, my own recollection with reference to them was very slight, as I had not time to go through them. Except to the list of witnesses and issues I could not, therefore, speak with any degree of certainty, and my evidence was given accordingly. I am quite unaware of having taken more interest in the Suit than the other European officers of the district: from its nature it necessarily created much excitement, and was the standing topic of conversation in every house in the station.

7. V.—That I gave the plaintiff information regarding evidence likely to be given by Lieutenant Porteous, my late Assistant.

Reply:—I can give this a clear denial, and may also state that Lieutenant Porteous was so outspoken on the subject of Mr. Goldingham's administration of justice that there was no need of that gentleman hunting up an informer. He acknowledges in the same paragraph that he himself has heard of Lieutenant Porteous' remarks, if he, why not others?

8. VI.—That I carried information of the contents of Mr. Goldingham's letters to Mr. Davies, to the plaintiff.

Reply.—In common with five or six others I saw *one* letter, it was handed round and the contents thus became at once notorious. I had certainly nothing whatever to do with the publication of the contents; nor did Mr. Davies pour out to me more than others his grievances which were known to all his friends.

9. VII.—That I have wrongfully imputed to Mr. Goldingham a bad name for truthfulness among Europeans of the district.

Reply.—Mr. Goldingham has attempted to screen himself from the grave results of his conduct in permitting an irrelevant question to be put to me on the plea that he was "most anxious to place matters in such a form before Government that they might see to the bottom of the case upon the record itself." In other words, Mr. Goldingham was so anxious to damage me and cause me injury, owing to the reports of a spy, upon which he had already as stated "dropped my acquaintance," that he forgot both his position and mine in our connection with Government, and permitted a scandal that otherwise would never have seen the light. Mr. Goldingham's Vakeel very properly refused to admit the question, and the Principal Sudr Ameen was content that it should not be asked, but Mr. Goldingham *himself* (sitting besides his Vakeel) specially instructed him to allow the question. After which Mr. Goldingham's official subordinate (the Principal Sudr Ameen), placed in a most delicate and trying position, permitted the question wholly irrelevant to the Suit, but which I was bound to answer. However strongly I feel Mr. Goldingham's remarkable conduct in this matter, I leave

Government to give it appropriate designation, as my indignation might lead me to use language not permitted in respectful correspondence.

10. Mr. Goldingham says he had a "strong idea" for what purpose I was about to be called, yet in none of the foregoing paragraphs of his letter does he allude to my "defaming him," and I can only say for myself that *I* had no idea whatever why I was called upon at all to give evidence in a suit with which I had no sort of connection; he may have got his suspicion from some native spy. Mr. Goldingham states he knew that nothing I said could eventually hurt him, if so his conduct in permitting the question as to his truthfulness is doubly wanton, and goes to show his strong personal malice towards me. I leave it for Government to judge whether Mr. Goldingham had no other way of bringing any conduct of mine to notice than the method he chose, namely by creating an official scandal.

11. The question was not allowed to be put for the reason assigned by Mr. Goldingham but for the sole purpose of injuring me, and that this is so I can prove by the testimony of gentlemen who were at the Court, to whom Mr. Goldingham boasted that he had let me "*into a trap*," this matter is notorious, and I leave it to Government whether it is creditable to Mr. Goldingham. If any one has "conspired," I maintain it has been Mr. Goldingham, to compass my injury and Mr. Snaith's; I repudiate with indignation the term as applied to myself.

12. Mr. Goldingham's accusation against me is founded on (1) *mere suspicion* because I was on visiting terms with Mr. Mutukisna, and (2) *the untrustworthy and unsubstantiated tales of native spies.* Spies have been employed to watch my house, and even to carry from my own table any talk that might be useful to Mr. Goldingham. In this I make no loose ungrounded assertion, I can prove it. Other houses have also been under this system of espionage. How far it has been successful in furnishing evidence against me of conspiracy is fully demonstrated by the fragile links forming Mr. Goldingham's chain of connection. Conscious as that gentleman must have been of his inability by means of spies' tales to connect me with the institution or prosecution of the suit, he resorted to the "trap" which I have exposed, and of which he has boasted.

13. Mr. Goldingham casts doubt on my evidence. He makes a point of Mr. Davies' denial of a "serious" conversation; this being a mere play upon the word *serious*, and a matter of personal opinion. Another point is the *place* where certain conversations took place, this is equally trifling, for he well knows that Europeans on the hills at Kodikanel live almost entirely in the open air, and that no name can be given to a naked hill side. So anxious was he to secure me for a victim that he would allow none of my evidence to be corroborated, and on these and other points as weak does he rest his disputation of my facts and attempt to cast a slur on my character to Government. Generally he makes a point of the fact that as my examination progressed some of my answers varied. None of these are in any way material, and the true conclusion to be drawn is that my memory, which was severely taxed, improved, as the matters on which I was questioned were gradually brought before me. And it exposes my unreadiness to give evidence. Some of Mr. Goldingham's remarks on my evidence I consider very objectionable; let him go into the witness box and swear to *my* untruthfulness

if need be, but I deny his right to pass such remarks on my sworn testimony, for which he cannot be held responsible.

14. It is here my duty to inform Government that I kept back as much as Mr. Goldingham and his Vakil would permit, feeling that I at least had no right to spread the scandal begun by them, otherwise I might have given fuller answers, involving other names and circumstances. My conduct in so acting will, I trust, meet the approval of Government, who will, I pray, read my evidence by the light of the foregoing explanation. If ordered by Government I am prepared to show by witnesses Mr. Goldingham's estimate in the district, but at the bidding of none else. I earnestly request Government to peruse the *entire* record of the civil suit, there may be other matters deserving of notice, but especially Government will observe that, but for the injudicious and irrelevant questions allowed or asked by Mr. Goldingham to Mr. Snaith and myself, the case was one entirely of law, and there would have been no official scandal or unseemliness whatever. Treated as I have been by Mr. Goldingham I desire the fullest enquiry into his conduct, and place entire reliance on the justice and fairness of Government, who may not be aware of the serious nature of the rumours afloat in this district, affecting Mr. Goldingham's character.

15. In none of my remarks have I gone upon what I consider my undoubted right to give any advice whatever to Mr. Mutukistna, I have followed Mr. Goldingham's complaint and met it at every point independant of this right which nevertheless I claim. I notice one clerical error in my evidence as printed in the Government order, and there may be more. Should my explanation on any special point not be considered satisfactory, I request a further reference may be made to me.

No. 40-C. From J. D. GOLDINGHAM, Esq., Civil and Session Judge of Madura, to the Chief Secretary to Government, Fort Saint George, dated Madura, 11th July 1872, No. 272.

I HAVE the honour, to report for the information of Government, that the Principal Sudr Amin delivered an oral Judgment the day before yesterday in the case of Mutukisna *versus* Goldingham, dismissing Plaintiff's Suit with costs. I am not in a position to submit to Government any lengthened report on the case itself as I left the management of it entirely in the hands of my Vakeels, nor am I in a position to give Government a resumé of the arguments or the Judgment as I have not been to the Principal Sudder Amin's Court since the examination of Messrs. Guthrie, Snaith, and Davies, and excepting what I have gathered from the papers, I have not had leisure to make myself acquainted with the records. Nor do I think it necessary that I should do so, as the Government will see in a printed form the whole case, with the exception of one or two trifling inaccuracies, correctly reported in the "Mail."

2. In respect however of my conduct as a public servant I would state this, that I did alter the fine of 100 Rupees into 50 in my rough and fair draft, as explained by me in my letter to Government, dated 13th June 1872, (and which explanation was found satisfactory,) and which as a Civil Judge I had a right to do

at any time *before* I actually pronounced the order in Court. In respect of the other alterations, spoken of as "tampering" with the records, I think the Government will find that in order to substantiate this charge the plaintiff wilfully fabricated a false document, marked G. in the record, and has been guilty of gross perjury, etc., in support of it.

3. It is not for me as a party to the Suit to observe upon the conduct of the Judge, but should Government feel inclined to notice the vast amount of irrelevant matter introduced into the Suit, I would not do right if I did not place before Government in its full light the extremely delicate position in which the Principal Sudr Amin was thrown, a position which no one not present in Court could fully realize. On the one side as a defendant his official superior, whose whole conduct has been held up to the public as stained with moral turpitude unknown in the history of the Civil Service, and on the other a man blinded with passion and insensible to any of those feelings which restrain gentlemen of the bar in their conduct of cases before the Courts of Justice. I regret however that the Principal Sudr Amin was not altogether able much as he wished it (see his order of the 2nd May) to protect me from insult while in the witness box. I would draw in particular the attention of the Government to that offensive question asked me by plaintiff regarding an alleged statement of the Acting Collector, and which, inasmuch as it had not the slightest foundation in any word or thought of Mr. McQuhæs, was nothing but a gratuitous insult. In my humble opinion the conduct of this case would furnish a sufficient ground for Legislative interference in order to place the whole body of practitioners on the same footing, assuming that the High Court are right in their view of the law which they expressed in their order, Exhibit O., which I very much doubt, and I would further suggest that, in the event of Government entertaining a similar opinion, the expediency of introducing a provision exempting Judges from being sued for acts done by them in their official capacity without sanction of the Government, should be taken into consideration.

4. But it is not the case itself that is of importance in my eyes so much as the object with which the Suit was instituted, and the means devised to effectuate that end. I must therefore trespass further on the attention of Government, for it is only through me that Government in the first instance can be made acquainted with facts which give rise to certain inferences in respect of those gentlemen whose sympathies have been so strangely enlisted in the cause of the plaintiff.

5. On the date of my former letter to Government I was not aware that Mr. Snaith had had any personal communication with plaintiff. Since then I have been put in possession of certain facts, which, if facts, as I have no doubt they are, it would be wrong in me to withhold. These are that since the trial began, Mr. Snaith has been in frequent communication with plaintiff. Some of these communications took place in Court, I am informed, and under the very eye of the Judge. On one occasion, in presence of both my Vakeels, Mr. Snaith came into the Principal Sudr Amin's Court and whispered something into plaintiff's ear. On this the plaintiff tore out some leaves of letter-paper which had been put in his book and handed them over to Mr. Snaith, who then went away. On another occasion the plaintiff wanted to hand up to the Principal Sudr Amin a letter from Mr. Snaith to the plaintiff, the purport of which seemed to be a request from Mr.

Snaith to the plaintiff to deny his being a conspirator in this case. On Thursday, the 4th July, Mr. Snaith again spoke privately to plaintiff in the Court, and on Friday the 5th, as Mr. Snaith was going up to his own Court, plaintiff ran up after him and spoke to him on the stairs. During this the hearing was suspended till plaintiff's return.

6. Further than this I have been informed that on Thursday the 4th July, Mr. Snaith, between the hours of 9 and 11 P. M., went to Mr. Mutukisna's house and stayed there about an hour, the rumour being that he went to obtain Mr. Mutukisna's assistance in drawing up his explanation to Government. This fact was communicated on the 5th July to my Nazir and to my Head Writer by one Sooba Iyen, a former employé in the Collector's office, and a witness in this suit, who witnessed it. On the 6th and 7th July my Nazir asked the plaintiff's Gumastah, one Oolagasoondrom Pillai if it was true, and he confirmed the above statement. Then, on the 6th July at 5 P. M., while the Doctor was visiting Mr. Mutukisna professionally (for he has a second time been struck down, and he is now dangerously ill), Mr. Snaith accompanied him thither, and while Doctor Gamack was attending on his patient, Mr. Snaith sat in the buggy conversing with Mr. Mutukisna's nephew. The general impression here is that Mr. Mutukisna has been helping Mr. Snaith in drawing up his explanation. Should, therefore, there be found any inordinate delay between the date of receipt by Mr. Snaith of the order of Government requiring an explanation and the date of submission to Government of his explanation, that delay cannot but be suggestive in consequence of Mr. Mutukisna's connection with it.

7. Regarding Captain Guthrie's interest in the litigation, information has been given me of another circumstance. When plaintiff drew up a draft of his list of witnesses, Andeppa Chetty, the Acting 1st Class District Moonsiff's name was included. Andeppa Chetty himself saw it. It was afterwards struck out, and both Mr. Mutukisna's Gumastahs told Andeppa Chetty that Captain Guthrie was annoyed at this, as he wanted the plaintiff to summon Andeppa Chetty in order to give evidence about that subject of a servant of mine being a batta Ameen in his Court, regarding which I informed Government in my last letter that Captain Guthrie had made an inquiry for Mr. Mutukisna. The reason assigned by plaintiff for striking out his name was in the Gomastah's words "that matter cannot be of any use to us." Again I would draw the attention of Government to a question plaintiff put me regarding the pamphlet Exhibit I. He asked me whether I had not informed Mr. McQuhæ or Mr. Davies that it was abstracted from plaintiff's desk. My reply was that I may have said something of that kind to Mr. Davies. I believe I did say so jocularly in conversation, but this conversation, repeated by Mr. Davies, must, I infer, have been carried to plaintiff's ears by Captain Guthrie and for a purpose. That Captain Guthrie was anxious to assist plaintiff before in his memorial to Government I gather from plaintiff's statement in paragraph 14 of the first memorial, dated 11th July 1871, that he had received certain information regarding my private affairs from a certain English official in a high position. I thought it was an invention of the memorialist's at the time, but I have since found reason for attributing the statement to Captain Guthrie. There is one other matter to which

I must draw the attention of Government. The Government will notice that plaintiff in his address alludes to Captain Guthrie as "being wanting in moral courage." Now, parties do not generally find fault with their own witnesses without cause, and as Captain Guthrie has tried what he could to damage my character, what more could the plaintiff expect from him. It shows, in my opinion therefore that there was some further understanding between them, and that plaintiff's hopes, in that respect, whatever they were, were not realized.

8. Respecting Mootoosawmy Chetty, my information is to the effect that he principally has been sowing the seeds of this scandal. I am told especially that he has been poisoning the ears of Mr. Snaith and spreading reports among the Vakeels in the High Court at Madras that the district has become very corrupt, under my administration. That he has assisted Mr. Mutukisna before in an unpraiseworthy action of the same nature I think there is reason to conclude. If the Government can remember it, I sent last year to Mr. Hudleston a libel Mr. Mutukisna had sent to the Duke of Buckingham regarding Sir Hercules Robinson. I sent it to show that Mr. Mutukisna was an habitual libeller. I have lately been assured that the papers in that instance were sent to the press from Mr. Mutukisna by Mootoosawmy Chettiar, and the corrected proof sheet bearing his endorsement, "strike off 25 copies soon," has been recently put in my possession. The handwriting is certainly very like his, and I send it for the inspection of the Government.

9. Another subject I must touch upon, namely the trial of the case in this district. I have seen articles in the papers suggesting that it would have been better if it were transferred to some other district. I was not of that opinion for the following reasons: I knew that the direct object of the suit was to attack my character. I wished to meet that attack openly and in a place where I could defend myself, and that is the reason why I allowed Captain Guthrie and Mr. Snaith to depose against me in a matter irrelevant to the real issues. If I had applied for a transfer it would have been construed here as if I shrank from meeting the charges the plaintiff, aided by his friends, wished to make against me. I could at any moment by the mere act of allowing the plaintiff to call upon me at my house have put a stop to the suit, but I was determined, as I feared nothing, that these attacks on my character should be brought to a close. On one occasion the plaintiff went crying to Vencatasamy Naick, I am informed,* and told him "he had been forced into this bad business by the gentlemen," and was anxious for him to mediate with me in the matter. My reply was that plaintiff could withdraw the suit if he pleased, but on my part I would make no conditions. Then, even if there had been a transfer of the suit to Tinnevelly or Trichinopoly it would not have avoided this scandal. Plaintiff would have cited the same witnesses. They would have been even then examined before the Principal Sudr Amin of Madura, and the result would probably have been worse, for the Court would not have had the same responsibility imposed upon it in checking irrelevant matter as it has had now, and the Judge deciding the suit would have had the disadvantage of not seeing the witnesses under examination. Besides this the disposal of the suit here has been much more satisfactory to the Madura people, to

* This was a different occasion from that I reported before.

whom I have been known for a period extending over thirteen years. It has been a great trial to me doubtless, but I have been sustained by the knowledge that Government will not allow the matter to pass over eventually without the closest investigation. I am starting for Ootacamund very shortly, and I have to arrive there on Tuesday or Wednesday, and any commands the Government have for me sent to Sylks' Hotel will reach me there. I will write to the Principal Sudr Amin requesting him as soon as his written Judgment is ready to send to Government direct the copies of the entire record now under preparation, with *fac similes* of those orders which bear corrections or interlineations; and any explanation which Government may require on any fact I shall be happy to afford. I believe however that my Vakeel, Mr. Scott, has, in his address, explained almost every thing.

No. 40-D. From J. F. SNAITH, Esq., Madras Civil Service, to the Acting Chief Secretary to Government, Fort St. George, dated Madura, 10th July 1872.

I have the honour to submit a copy of a letter to Mr. Mutukisna, and his reply in original, for the information of Government, and as a supplement to my letter of yesterday.

ENCLOSURE No. 1.

DEAR SIR, MADURA, 3*rd July* 1872.

Will you kindly explain in detail the extent of my connection with you, since the defendant in the action Mutukisna *v.* Goldingham, has not shrunk from making a charge of conspiracy to Government, of which conspiracy, it would appear, I am a member.

I must ask your permissiom to submit your reply to Government.

Your's sincerely,

(Signed) J. F. SNAITH,
Madras Civil Service.

To Henry F. Mutukisna.

ENCLOSURE No. 2.

DEAR SIR, MADURA, 9*th July* 1872.

With reference to your letter of the 3rd instant, I regret to say that my state of health is such that I am unable to write at greater length, but I beg you will view this in connection with the letter I have already sent to the Public Papers, and with what I stated in open Court. How anybody could dream of a conspiracy in a case of this kind I cannot possibly conceive. Before I left for England in September 1869 I had never seen you. I returned to India, and arrived in Madura in May 1871. I had then occasion to go up to Madras almost immediately, when I came back, I think in July or August, I called upon you, as I did upon every one else (except Mr. Goldingham), but to the best of my recollection you were not at home. You returned my call a few days after, when I am certain not a single allusion was made to Mr. Goldingham, or anything connected with business, Mrs. Mutukisna being nearly the whole time in the room. The next time I saw you was when I visited Mr. McWatters, who was staying with you when on his way to take up his appointment in Tinnevelly; on that occasion I believe you scarcely spoke a single word to

See "Madras Times" 5th July.

me. This is the extent of my connection with you, which has been made the foundation for a charge of conspiracy in my case against Mr. Goldingham. Any one reading your deposition must see that what told against the defendant was elicited in cross examination. You are at liberty to make any use you like of this letter.

Your's faithfully,
(Signed) HENRY F. MUTUKISNA.

To J. F. Snaith, Esq.

No. 40-E. From J. F. SNAITH, Esq., Madras Civil Service, to the Chief Secretary to Government, Fort St. George, dated Ootacamund, 25th July 1872.

I have the honour to request you will lay the following statement before His Excellency the Governor in Council, by way of supplement to my explanation already submitted.

2. The Madras Press has violently attacked me for importing private conversations into my evidence. I cannot defend myself in the papers, but I deny most positively the accuracy of the statement.

3. Mr. Goldingham imported private matters, not I; in the first instance, with Captain Guthrie, and next with me, in order to show that Captain Guthrie was guilty of perjury!

4. When the question was asked me about my croquet-ground, I complained, and in the witness-box did not hesitate to characterize it as "indecency." This word made Mr. Scott, the defendant's Vakil, perfectly furious, and he had the impertinence to remind me that I was there as a witness, not as a judge, a fact of which I was already painfully aware.

5. Yet I am now held up to ridicule for that which I indignantly condemned, and was the first to condemn.

6. Mr. Goldingham even showed a disposition to enter into my private correspondence, and I found it necessary to say "I will not have my private letters gone into."

7. Though I have sworn on my oath that I was an unwilling witness, I am represented as taking a pleasure in washing dirty linen in public. I had no option but to obey my summons: had I been asked to go as a witness I should assuredly have refused.

8. It is most essential to point out that all the questions were leading, and the actual answers for the most part "yes" or "no." Because the Editors have not taken notice of this fact, they have misappreciated the evidence throughout; and I need scarcely remark that leading questions are a sort of challenge to a man to speak the truth.

9. I am represented as saying that I wished Mr. Goldingham removed because his character had been assailed on my croquet-ground. Of course I said nothing so ridiculous, and the Government is aware that my reasons are much more cogent.

The questions were in this form :—

Q.—Has Mr. Goldingham's character ever been attacked on your croquet-ground?

A.—Constantly. (And I might have said there was no place in Madura where it is not attacked).

Q.—Do you share the plaintiff's wish to get rid of the defendant?

A.—Yes.

Q.—On public or private grounds.

A.—Much more on public than on private grounds.

10. Mr. Goldingham's Vakil asked me even about my inner sympathies. Yet what have they to do with an action-at-law? That they are on the side of the wronged is not discreditable to me, but the reverse.

11. The only answers of mine objected to are the replies to defendant's own questions. The Madras press has overlooked this obvious fact. The plaintiffs extracted nothing from me, and had he tried, Mr. Goldingham would have objected on the score of his integrity. Yet it was necessary to have something out, lest there should be no trace, even the faintest, of a conspiracy.

12. And so Mr. Goldingham examined my wishes and sympathies and private conversations, and waived his integrity in Captain Guthrie's case, the Principal Sadr Amin, Mr. Goldingham's subordinate, being passive.

13. The Madras Press, in its profound ignorance of the affairs of Madura, has overlooked the conditions which must be pre-existent before such an action is possible, and calls the whole affair a "miserable squabble," and it selects as the one man for commendation Mr. A. P. Strinivasa, who has upset the decision of the High Court.

No. 40-F. From J. D. GOLDINGHAM, Esq., Civil and Session Judge of Madura, to the Chief Secretary to Government, Fort St. George, dated 9th September 1872.

As I go down on Thursday, and as I should be sorry to leave without letting you know all the facts connected with the "pamphlet," I take the liberty of sending the papers I alluded to before, in order to remove any impression you may have received that the pamphlet was in any way improperly procured.

No. 1 is the report of my Nazir showing how he saw it in one Rungarow's house. No. 2 is Rungarow's report.

Then as to the man Subbiah taking leave and entering Mutukisna's service, the remaining papers show that he took leave for a very different purpose, and that there was no possible connection between him and the Court in reference to that subject.

In July 1871 he applied for three months' leave to enter the Town Sub-Magistrate's Office, which was granted, see paper 3; and 4 shows he got an extension of three months' leave without any guarantee for his re-instatement. In 5 he applied, in February 1872, to be re-instated, and the matter was referred to the Nazir. 6 shows the Court refused him his re-instatement till a vacancy occurred, and that happened in April 1872.

The pamphlet was given me to keep in September or October 1871, and I never heard till the trial that any of my copyists had ever been in the plaintiff's service.

This is all I have to say officially. I am glad to see you so much better. Tomorrow I shall be calling your way, and I will drop in and say good bye if you are able to receive visitors.

ENCLOSURE No. 1.

Statement about the pamphlet of K. Kristniengar, Nazir of the Civil Court.

One day in August or September last, I had been as usual to the house of my friend and neighbour one Renga Row, and observing a pamphlet in his hands and finding from what he read that it had connexion with your honour's explanation which had been forwarded to Government in reference to Mr. Muttukisna's memorial and which I had heard about, I asked Renga Row where he got the pamphlet from, and he replied that he got it from one Coopoosamy Iyengar (Mr. Mutukisna's writer) who has been attending his (Renga Row's) house to study law books. I got it from Renga Row, read it in my house, and had it several days (during which period one Vencatachellom Pillay, a Gomastah of Principal Sudr Amin's Court, paid me a visit in my house and seeing the pamphlet with me, looked into it and stated that he had been aware of the pamphlet). I then brought it to Court, lent it to Mr. Scott and S. Subramonea Iyer, got it back and showed it to Head Writer. He asked me if I had any objection to let him show it to your honour. I said I had no objection and it was taken and a copy made and returned. I again gave it about a few days after to the Head Writer having meanwhile got the consent of Renga Row. Some time after, Renga Row asked me what became of the pamphlet, as Cooppoosamy Iyengar wanted to know, and I told him it had been given into the Principal Sudr Amin's Court by your honour. After Mr. Mutukisna said in Court it was stolen, I asked Renga Row how he got the pamphlet and he told me. I have since asked him for a statement in writing which he gave and which I enclose for your honour's perusal.

16th August 1872.

(Signed) K. KRISTNIENGAR.

ENCLOSURE No. 2.

Statement of K. Renga Row of Madura, Huchdar of Chattrams in the district of Madura.

One Coopoosamy Iyengar, who was Mr. Mutukisna's writer, and left him with a good certificate, had been frequenting my house to study for Special Test Examination as he used to do when he was a writer under him. My neighbour G. Kristna Iyengar, brother of K. Kristna Iyengar the Nazir, and another friend of mine named B. Renga Row, an Accountant of Collector's office, were all studying together. One day I observed the said Coopoosamy Iyengar reading a pamphlet in my house, and on my asking him what it was about, Coopoosamy Iyengar replied it was an attack against the Civil Judge which Mr. Mutukisna gave him. Afterwards, while I commenced to read it, A. Streenivasa Row, a friend of mine living in my street, came to me, and seeing the pamphlet with me had a reading of it. It was afterwards got by my brother-in-law C. Rama Row, the then Sub-Magistrate of Madura Town and present Tahsildar of Cundacoor in Nellore District, and read by him. On another occasion while I was reading the pamphlet the Nazir K. Kristna Iyengar came to me, and at his request I let him have it. After this he asked my consent to his letting his judge have it and I consented. At the trial of Mr. Mutukisna's suit Coopoosamy Iyengar came and asked me for the pamphlet which he had left in my house with b ooks and papers. On my telling him what had become of the pamphlet as stated above, Coopoosamy Iyengar wished to know if the pamphlet in Court was the identical one brought by him and left in my house. I questioned the Nazir K. Kristna Iyengar on the subject, and he said yes, and wanted me to learn from Coopoosamy Iyengar how he got the pamphlet. I then asked Coopoosamy Iyengar and he gave me the particulars.

15th August 1872.

(Signed) K. RENGA ROW.

ENCLOSURE No. 3.

To

J. D. GOLDINGHAM, Esq.,
Civil and Session Judge of Madura.

The humble Petition of P. V. SUBBIAH, a Copyist.

I most humbly and submissively beg your honour to grant me leave for three months, as I am now acting for a Dufterband in the Town Sub-Magistrate's Court, Madura, for three months.

For which act of benevolence I, your honour's Petitioner, shall as in duty bound ever pray.

MADURA,
10th July 1871.

(Signed) V. SUBBIAH,
Copyist.

ENCLOSURE No. 4.

To

J. D. GOLDINGHAM, Esq.,
Civil and Session Judge, Madura.

The humble Petition of V. SUBBIAH, a Copyist in your honour's Court.

MOST RESPECTFULLY SHOWETH,

That your honour's petitioner is still on some other duty and consequently begs your honour to extend his leave for a further period of three months.

For which act of charity your honour's Petitioner as in duty bound shall ever pray.

MADURA,
22nd September 1871.

(Signed) V. SUBBIAH,
Copyist.

ENCLOSURE No. 5.

To

J. D. GOLDINGHAM, Esq.,
Civil and Session Judge, Madura.

The humble Petition of V. SUBBIAH, a Copyist in your honour's Court.

MOST RESPECTFULLY SHOWETH,

That your honour's petitioner, having taken leave from the Court for six months on othert duty, and returned at the expiry of the leave to resume the petitioner's duty, beg with profound respect and submission to order his reinstatement in the Copyist's Post, and thereby allow him to write Copies.

For which act of charity your honour's Petitioner shall as in duty bound ever pray.

MADURA,
31st January 1872.

(Signed) V. SUBBIAH,
Copyist.

ENCLOSURE No. 6.

With reference to the order of the Court the Civil Record-keeper reports that Copyist Soobbien, who was on leave, returned to his duty before the expiration of his leave ; that there at present twelve Copyists ; that they have earned each Rupees 11-2-0 during the last two months, and tha he may be entertained as a Copyist.

It does not seem that an extra Copyist is required at present. Petitioner may be re-entertained at a vacancy.

17th February 1872.

(Signed) J. D. G.

He was appointed in April 1872.

Proceedings of the Madras Government, Judicial Department,
12th October 1872.

No. 40-G. ORDER THEREON, 12th October 1872, No. 1370.

From the papers above recorded it appears that the suit recently tried in the Principal Sadr Amin's Court at Madura, in which Mr. H. Mutukisna, an Advocate of the High Court, who has for some years been practising as a Pleader in the Madura Courts, was Plaintiff, and Mr. J. D. Goldingham, Civil and Session Judge of Madura, Defendant, was first brought officially to the notice of Government in Mr. Goldinghan's letter of the 13th June last, in which he preferred charges of a somewhat grave character against Captain Guthrie and Mr. Snaith, accusing them of having conspired together and instigated the Plaintiff to bring the suit, with the object of procuring Mr. Goldingham's removal from the district. This letter was sent to Captain Guthrie and Mr. Snaith for any remarks they might wish to make on it.

2. The following are the charges preferred by Mr. Goldingham against Captain Guthrie and Captain Guthrie's replies:—

1st.—That Captain Guthrie had volunteered to give testimony to the effect that Mr. Goldingham had a man in his private employ who was at the same time an Amin in the Madura Munsif's Court. In answer to this Captain Guthrie states that he has never, on any occasion, volunteered to give evidence, for the ample reason that he could give none. He adds that Mr. Goldingham grounds his assertion on the story of a spy.

2nd.—That Captain Guthrie made enquiries in the matter referred to in the first charge through the medium of one of the Police Constables. This charge also is emphatically denied by Captain Guthrie, who alleges that it is founded on the story of the spy before referred to.

3rd.—That Captain Guthrie urged Mr. Mutukisna to file his suit against Mr. Goldingham, even against his own wish. This also is emphatically denied.

4th.—That Captain Guthrie had several interviews with Mr. Mutukisna since the commencement of the suit, and that he had seen certain papers connected with it and had sent them to Mr. Snaith. In regard to this charge Captain Guthrie states that he has known Mr. Mutukisna for some years; that they have exchanged visits frequently, and that Mr. Mutukisna has very often mentioned to him his cause of complaint against Mr. Goldingham; that he (Captain Guthrie) said little to Mr. Mutukisna on the subject, but listened to what he had to say, as courtesy demanded. He admits that, at Mr. Snaith's request, he obtained certain papers relating to the suit from Mr. Mutukisna, and sent them on to Mr. Snaith.

5th.—That Captain Guthrie gave information to Mr. Mutukisna regarding evidence likely to be given by Lieutenant Porteous unfavourable to Mr. Goldingham's character as a Judge. This charge is denied by Captain Guthrie, who points out with reference to it that Mr. Goldingham admits in his letter to Government having heard of a disparaging remark made regarding him by Lieutenant Porteous, from which admission he contends that it is only reasonable to infer that other persons may have heard of the remark.

6th.—That Captain Guthrie informed Mr. Mutukisna of certain letters which had passed between Mr. Goldingham and Mr. Davies, lately Assistant to the Collector and Magistrate of Madura, relating to a matter which had led to Mr. Davies'

removal to another district. On this Captain Guthrie observes that he, in common with five or six other persons, saw one of the letters referred to, and that the matter thus became notorious.

7th.—That Captain Guthrie, in his evidence given on the recent trial, wrongfully and maliciously alleged that Mr. Goldingham had a reputation for untruthfulness among the Europeans of the district. In reply to this, Captain Guthrie states that the answer to which Mr. Goldingham refers was elicited from him by a question put by the Plaintiff, to which question Mr. Goldingham's Vakeel at first objected, but was instructed by Mr. Goldingham (who was present) to allow it. Captain Guthrie alleges that the question was allowed to be put for the purpose of injuring him, and that Mr. Goldingham boasted that he had let him "into a trap."

3. On full consideration of the statements made in Mr. Goldingham's letter of the 13th June, of Captain Guthries' explanation, and of the other papers which have come before Government, the Governor in Council can find no evidence whatever to show that Captain Guthrie was an instigator of, or an active party to, the proceedings instituted by Mr. Mutukisna against the Judge of the district. Most of Mr. Goldingham's charges against Captain Guthrie appear to have been based on reports brought to him by natives, whom Captain Guthrie, not unreasonably, designates as spies, and are emphatically denied by the accused. The Governor in Council sees no reason whatever for discrediting Captain Guthrie's statements, but every reason for distrusting Mr. Goldingham's suspicions. The admission of the latter that he availed himself of such a source of information as one of Mr. Mutukisna's Goomastahs, and that on receiving information, apparently from some other source, affecting Captain Guthrie, he "dropped his acquaintance entirely," without, it would seem, having given Captain Guthrie any opportunity of explaining, affords evidence of a remarkable readiness to suspect and to act on suspicion. Captain Guthrie's answers to the first two questions put to him regarding Mr. Goldingham's reputation, do not evince any eagerness on his part to say what might be damaging to Mr. Goldingham. In regard to the answer which forms the substance of Mr. Goldingham's seventh charge against Captain Guthrie, it is evident that the former, and not the latter, is responsible for the question which elicited it being allowed. The reasons assigned by Mr. Goldingham for the course taken by him with reference to this question are very unsatisfactory. The Governor in Council resolves, accordingly, to inform Captain Guthrie that he has completely met the accusations preferred against him by Mr. Goldingham.

4. As regards Mr. Snaith, His Excellency in Council considers that he also has satisfactorily met the charge of having been improperly mixed up with the suit. The specific accusations made against him in Mr. Goldingham's letter of the 13th June are—

1st.—That he avowed, when giving his evidence in the suit, a wish to get rid of Mr. Goldingham from the district on public grounds.

2nd.—That on the same occasion he stated in open Court that Mr. Goldingham's character had been constantly attacked on his (Mr. Snaith's) croquet ground. Mr. Snaith's explanation, however, and especially that contained in his second letter, puts these statements in a very different light from that in which they

appear as recorded in the report of the trial. The were not statements volunteered by Mr. Snaith, or elicited by questions put to him by the Plaintiff, with whom he is supposed to have conspired. They were elicited in answer, Mr. Snaith states, to leading questions put to him by Mr. Goldingham's Vakeel, and the actual answers were for the most part merely "yes," or "no." This would materially alter the aspect of the case, as it affects Mr. Snaith, if, in his reply to the Proceedings of Government of the 24th June last, he had confined himself to an explanation of the tenor of that given in his letter of the 25th July.

5. Unfortunately, however, in his letter of the 9th July, Mr. Snaith has permitted himself to make a series of accusations against Mr. Goldingham, charging him with misconduct of the gravest character, but most of them vague in their tenor, and so avowedly unsupported by any thing approaching to proof, that it is impossible for the Government to deal with them, or to reconcile the course taken in bringing them forward with the possession of the most ordinary discretion on the part of the accuser. The charges are most of them avowedly based on rumour, and that of the most vague and general description.

6. The Governor in Council has read with much regret those portions of Mr. Snaith's letter in which he has so indiscreetly accused of the gravest offences an officer occupying a high judicial office. Mr. Snaith himself acknowledges that he has no substantial evidence whatever for these grave accusations, and it is impossible for the Governor in Council to divest himself of the impression that Mr. Snaith, by his readiness to receive calumnious rumours, has himself been the chief cause of their continuance and frequency. It is evidently impossible for the public service to be carried on if public servants are to be permitted to make against each other accusations of the most heinous character, in support of which, by their own admission, they have not a particle of evidence to adduce. While the Governor in Council is willing to believe that Mr. Snaith has been misled in acting in a manner so detrimental to the public interests, and that his rash accusations against Mr. Goldingham are not due to malicious motives, he cannot allow so grave an offence to be passed over without serious notice. He accordingly resolves to convey to Mr. Snaith the severe censure of Government for his conduct, and to remand him to his substantive appointment of Head Assistant to the Collector and Magistrate of Bellary.

7. The Governor in Council has by this decision sufficiently indicated his opinion of the accusations which have been so rashly preferred against Mr. Goldingham, but after a most careful consideration of the whole of the papers connected with the recent trial, His Excellency in Council is convinced that it is not desirable in the public interests that Mr. Goldingham should be allowed to remain at Madura. His conduct in the two cases in which he has incurred the severe censure of the High Court, one of which led to the institution of the recent suit, and the admissions contained in his letter to Government as to his practice of procuring information regarding the proceeding of the other European officers of the district, prove him, in the opinion of Government, to be unfit to hold the highest judicial office in a district which evidently is, and for many years has been, a scene of continual intrigue, and which requires, in the important position of the chief judicial authority,

an officer with an established reputation for high minded conduct, and with sufficient force of character and proved discretion to enable him sternly to keep in check and repress the spirit of intrigue and dishonesty which at present prevails. An English official who permits himself to be guided by the reports of interested native informers, who by such proceedings as those of Mr. Goldingham in the case of the complaint preferred by the Rev. Mr. Noyes, and in the case of Mr. Mutukisna, has laid himself open to severe censure, has shown himself wanting in these essential qualities, and is, in the opinion of Government, specially unfit for the unusually onerous duty of presiding in the Civil and Sessions Court of Madura.

8. The lamentable disunion of the European Society in Madura, which is apparent from the correspondence under review, has also, in the opinion of the Government, been due in a great measure to the indiscreet line of conduct pursued by Mr. Goldingham, and although this is a matter of minor importance as compared with the graver questions which have come under the consideration of Government, it cannot have failed to operate injuriously to the public interests of the district. Under these circumstances the Governor in Council has directed the transfer of Mr. Goldingham to the Civil and Sessions Court of Nellore.

(True Extract.)

R. S. ELLIS,
Chief Secretary.

To J. D. Goldingham, Esq.
,, J. F. Snaith, Esq.
,, Captain T. K. Guthrie.

Kodikanal.
Pulney Hills
19th Augt. 1872

From

H. F. Mutukisna

To The Secretary to Government
Fort St. George

Sir

With reference to the Memorial forwarded by me to His Excellency the Governor dated 12th August 72 I have the honor to state that in reading over my copy of the

said Memorial I find I have in-
advertently omitted ~~the~~ Two words in the
17th Paragraph namely "Suspended
or" after the words "being subse-
quently".

I have the honor to be
Sir
Your Most Obed.t Serv.t
Henry J. Mutukisna
Barrister at Law

1872

Recd. 27. August/72

[illegible]

The Madras Mail - 24 June 1872.

THE MADURA CAUSE CELEBRE.

MUTTUKISTNA *vs.* GOLDINGHAM.

SETTLEMENT OF ISSUES.

This was an action for damages (Rs 3,000) alleged to have been sustained by plaintiff in consequence of the "wrongful and malicious acts" of the defendant. The plaintiff, Mr. H. F. Muttukisna, is a Barrister-at-law, and was admitted and enrolled an Advocate of the High Court of Judicature at Madras, on the 20th of April 1868. From the date of his admission he practised as an Advocate in the district of Madura, up to September 1869, when he ceased to practice, and went on a visit to England. The defendant was then, and is still the Civil and Sessions Judge of Madura. In the month of May 1871, the plaintiff returned to Madura. On the 7th June 1871 he was served with a certified copy of the proceedings of the Civil Court of Madura, dated 6th March 1871, ordering that the plaintiff should be suspended from practising as a Vakeel of that Court until he should offer an ample apology, and pay a fine of Rs. 100, for having left Madura, and gone to England without "thinking fit to represent the fact to the Court!" What purported to be a copy of the said order, certified as true, by the defendant, was also forwarded to England, and returned to the plaintiff. On the 27th June 1871, the defendant issued a warrant to the Nazir of the Civil Court, reciting that by an order of the said Court, dated 6th March 1871, a fine of Rs. 50 had been imposed upon the plaintiff, and requiring the Nazir to collect the same. The plaintiff paid the fine of Rs. 50 under protest. The defendant, it is alleged in the plaint, had no jurisdiction to make any such order, or to issue any such warrant, and the plaintiff states he made, and issued, the same maliciously, against good faith, and with intent to injure the plaintiff. In consequence of the said order the plaintiff was prevented from practising in the Civil Court of Madura, and the Courts subordinate thereto, and otherwise suffered in various ways until the same was set aside by the High Court. The plaintiff, it was alleged, made frequent applications to the defendant for copies of the said order and warrant, but the defendant "maliciously and with intent to injure the plaintiff, by preventing him from appealing to the High Court' delayed and refused to furnish such copies until the 5th July 1871.

On the 5th July 1871, the plaintiff was furnished, by order of the defendant with what purported to be copies of the said order and warrant. The said copy of the order differed from that furnished to the plaintiff on the 7th June 1871, as aforesaid, and also from the one forwarded to England in certain particulars, and especially in stating that the fine imposed upon the plaintiff was Rs. 50 instead of Rs. 100. The copy of the warrant also differed from that issued by the defendant to the plaintiff on 27th June 1871. The defendant, as the plaintiff states, "deliberately tampered with the records, and in collusion with the Sheristadar, the Head writer, and others, altered the figure 100 into 50, and made other alterations or variations in the said copies, as the plaintiff believes, illegally, maliciously, and fraudulently with intent to injure the plaintiff, by preventing an appeal to the High Court." On the 5th July 1871, the plaintiff was also furnished, by order of the defendant, with what purported to be a copy of an order of the Civil Court, "never before communicated to the plaintiff," dated 27th June 1871, directing the Nazir to collect the said fine of Rs. 50, therein stated to have been imposed, by an order of the Court of 6th March 1871, and 7th June 1871, and further ordering that "until plaintiff should make a suitable apology for his disrespect in not reporting his departure from Madura, he should be suspended from practising as a Vakeel in that Court and in the Courts subordinate thereto."

The last mentioned copy of the proceedings of 27th June 1871, contained a note to the effect that no appeal lay from these orders imposing fines under clause 2, section 15, Regulation XIV. of 1816. That section, the plaint maintained, has no application whatever to the case, as the defendant well know, and the plaintiff believes that the said note "was inserted by the defendant, with malicious intent, to injure the plaintiff by preventing or delaying his appeal." By proceedings of the High Court of Judicature at Madras, dated 13th July 1871, passed on the plaintiff's petition, it was declared (amongst other things) that the said order, suspending and fining the plaintiff, "was illegal, and must be annulled, and the fine levied refunded to the plaintiff, and it was ordered accordingly. It was further declared that the facts before the High Court, in this case, disclosed great impropriety of conduct on the part of the Civil Judge, and that it was an extremely harsh proceeding to impose in his (plaintiff's) absence so serious a punishment as that of fine and suspension from practice.

The defendant denied the correctness of the statements made by the plaintiff. The plaintiff, he said, was liable to be dealt with under Regulation XIV. of 1816, notwithstanding that he was an Advocate of the High Court practising in the Civil Court of Madura. The plaintiff was, under Regulation XIV. of 1816, appointed a Vakeel of the Civil Court of Madura. He received a Sunnad of appointment on the 12th October 1867, and still holds it, and continues a Vakeel of the said Court. The plaintiff's enrolment as an Advocate of the High Court, did not revoke the said Sunnad. The allegation that plaintiff ceased to practice in September 1869, as implying that he was under no obligation to appear in the Civil Court of Madura, is, the defendant maintained, unsustainable. The defendant further maintained that the plaintiff neglected, subsequent to September 1869, to appear before the Civil Court of Madura, on several days, when business in which he had been employed came on to be transacted before the said Court, and "he also omitted to notify to the said Court his inability to attend." The defendant maintained that he "acted judicially and with jurisdiction in passing the proceedings, and ordering the acts referred to in the plaint." The defendant further maintained that he acted neither wrongfully nor maliciously but in good faith, believing he had jurisdiction to pass the proceedings, and order those acts, being protected by Act XVIII. of 1850 from being sued. The plaintiff, the defendant alleged, did not sustain damages, to the extent of Rs. 3,000, or to any extent whatsoever." If plaintiff had failed to secure practice, it was because "his character had become too well known in the district." Nor was there unusual delay, the defendant maintained, in furnishing copies of orders to the plaintiff, nor were the records of the Court improperly meddled with, or altered to plaintiff's prejudice, by defendant, or in collusion with the Seristadar, or Head writer, or any other person. The language of the plaint, the defendant alleged, was disrespectful.

On the 12th of April a notice was given by the defendant to the plaintiff, requesting him to produce four documents, viz., a Sunnad granted to the plaintiff, by the Civil Court of Madura, empowering him to practice in the said Court and the Courts subordinate to it; copy of a letter written by him to Mr. Mayne, an Advocate of the Madras High Court; a letter received by the plaintiff from Mr. Mayne; and another from the defendant's Vakeel, Mr. Scott. The plaintiff produced the three letter documents, and represented that the Sunnad was returned by him to the Civil Court as soon as he was enrolled an Advocate of the High Court. Defendant's Vakeel also produced, on the plaintiff's notice, a letter purporting to have been addressed to him by the plaintiff on the 27th June 1871. The plaintiff put in 18 documents, but the defendant's Vakeel, Mr. Scott, objected to the reception of these, on the ground that they had not been produced with the plaint, as required by Section 39 of the Civil Procedure Code. Mr. Scott, however, subsequently waived his objection in regard to the reception of all but four of these documents. These four, he contended, were neither originals, nor even legally admissible copies. Two were returned on the plaintiff's proposal to produce

certified copies of them, and as regards the other two Mr. Scott's objection was over-ruled. The plaintiff asserted that they were copies taken by him at the time the originals were served, and his reason for producing them was simply to show by comparison that the originals 'have since been altered.' The Principal Sudr Ameen was of opinion, that to this extent they were legally admissible. The Principal Sadr Amin did not concur with Mr. Scott in the objection raised by the latter that the documents were not put in with the plaint according to Section 39 of the Code. That section, his honor said, requires that "when the plaintiff sues upon any written document, or relies upon any such document as evidence in support of his claim he shall produce the same in Court when the plaint is presented;" and, his Honor further said that the 128 Section also provides that "parties or their pleaders shall bring with them and have in readiness, at the first hearing of the suit, to be produced when called upon by the Court, all their documentary evidence of every description which may not have already been filed in court." These two sections, his honor was of opinion, must be so construed as not to clash with each other. If Mr. Scott's objection, he said, were taken, the result would be that a plaintiff cannot produce a document, except with the plaint, and the latter section referring to parties in general becomes nugatory. In the opinion of the Principal Sudr Ameen, all that Section 39 required was that when the plaintiff sued upon a contract, and that contract formed the very essence of the action, it must be produced with the plaint; but other documents such as those produced by plaintiff, which go collaterally to throw light on his case, might be had in readiness at the first hearing. This suit, besides, in the Principal Sudr Amin's opinion, was not an action upon a contract but one of tort.

Mr. Scott produced on behalf of the defendant five open documents and a sealed cover containing others, and prayed that the latter might not be opened till the trial. The plaintiff objected to this as a novel proposal, not sanctioned by the Procedure Code, or practice of courts, and contended that the sealed document might contain matter calculated to raise additional issues, and hence he was entitled to see them before the settlement of issues. Mr. Scott, the defendant's Vakeel, assured the Court that they contained no such matter, and, even if they did, he did not think it would be too late, when they were seen, for the Court to amend, or add to the issues already recorded. The Principal Sudr Ameen was of opinion that as the documents were simply held in readiness to be produced at a future hearing (Section 128 of the Code) when required by the Court, the defendant was not bound to file them, and until they were filed the plaintiff had no right either to a perusal of them or to claim copies of them.

The issues, as settled by Mr. A. P. Streenivasa, the Principal Sudr Ameen, were as follows :—

1st.—Whether, at the time the defendant fined the plaintiff in a sum of Rs. 50, and suspended him from practising in the Civil Court, and the Courts subordinate thereto he, the said defendant, had jurisdiction, under Regulation XIV. of 1816, to impose such fine upon the plaintiff, or to suspend him from practising in those Courts or any of them.

If this issue be decided against the defendant, then

2nd.—Did he act in the matter so as to be protected by Act XVIII. of 1850?

3rd.—Did the defendant do any, and which of the acts in the plaint mentioned maliciously and with an intent to injure the plaintiff?

4th.—Has the plaintiff sustained any damages owing to the conduct and proceedings of the defendant in the plaint mentioned, or any and which of them, and if so to what amount?

(To be continued.)

The Madras Mail. 26 June.

THE MADURA CAUSE CELEBRE.

MUTTUKISTNA *vs.* GOLDINGHAM.

FILING OF PETITIONS.

With reference to the issues as settled by the Principal Sudr Ameen on the 13th April, the plaintiff filed a petition on the 7th May suggesting some verbal alterations, as follows :—

1. In the first issue, after "from practising in these courts or any of them" to add "and to require him to make an apology."

2. In the fourth issue, instead of "pecuniary loss" to substitute the word "Damages" as being more general, and including "pecuniary loss," as well as other injury and wrong as defined in legal language.

The above amendments were adopted.

On the 27th April, the defendant, Mr. Goldingham, filed a petition under Section 163 of the Civil Procedure Code, requesting to be exempted from personal attendance at Court. The defendant stated, in the petition that no cause had been shewn by the plaintiff for the examination of the defendant as a witness. That the object of the plaintiff in seeking for the examination of the defendant was not simply to obtain his evidence on the matters in issue in the present suit, the Pleaders of the defendant being fully prepared to admit, or deny, any allegation having any real bearing upon the case. The real object of the application, it was stated, was to gratify a personal feeling, as is manifest from the insulting insinuations thrown out in the plaint touching the alleged act of defendant in tampering with the records of his Court, in collusion with his head writer and Seristadar. The petition further stated that the defendant was daily engaged in onerous public duties, and that, unless it was absolutely necessary for a right decision on the issues, he begged that he might not be required to attend. The defendant stated that he had no other objection to give evidence, but merely protested against plaintiff availing himself of this opportunity of gratifying a personal feeling.

The plaintiff, in a counter-petition, dated 30th April, submitted that the very nature of the case, the pleadings, and the evidence required, showed that it was absolutely necessary to examine the defendant on his oath. He submitted that it now became more than ever necessary from the defendant having cited the Secretary to Government to produce petitions presented by the plaintiff, dated 11th and 12th July respectively, and that it was most material that the defendant should be examined in respect of the statements contained in those petitions, and his explanation forwarded to Government. It was very strange (the plaintiff submitted) that the defendant, who is a Civil and Sessions Judge, should shrink from denying upon oath the allegations made against him, and from proving the assertion that the plaintiff lost his practice by his "character having become too well known in the district," a statement which he (the plaintiff) would prove by the defendant's own words and conduct to be totally unfounded It was impossible (he submitted) for the Vakeels to admit, or deny facts known only to the plaintiff and defendant : for instance, the reception the defendant met with when he called on him at the Pulneys, when he came to see plaintiff's furniture : the circumstances under which the letter to Mr. Mayne was written : the conversation which the defendant had with the plaintiff's Gumustah when coming down the hills on the 4th January last. The plaintiff declared most solemnly, in his petition, that he had no other object in requiring the defendant's evidence than to elicit the truth with reference to the issues. The very correspondence (the petitioner submitted) which the defendant had put in proved that he (the plaintiff) could have no vindictive motives, and so far from wishing to expose the defendant, he always had been, and still was willing that any three or more European gentlemen who knew the district, and who knew also the plaintiff and defendant (whose names are on the plaintiff's list of witnesses, and three of whom are also on the defendant's list) should investigate and decide this case, and he pledged his word to abide by their award. The defendant, in his petition, stated that the only object of the plaintiff was to gratify personal feelings. The plaintiff, in his petition, submitted that such an imputation at this stage of the case was unworthy of the defendant's position, and was calculated to

had been guilty of such conduct, as would appear from the proceedings of the High Court, dated 29th March 1871. The plaintiff submitted that if he had used the word "collusion," which is a formal, legal, and technical word, he had acted under advice, and it was the defendant's own fault that his records, furnished by himself, should vary so materially, and should bear the signatures of his subordinates certifying them to be "true copies." Had the very nature of the case not called for such an expression the plaintiff submitted that he would not have used it. The defendant, he further submitted, endeavoured to throw every difficulty in the way of the plaintiff. First, he objected to his own documents certified by himself, being put in evidence; then he had withdrawn that objection, and now he refused to appear in the witness box. How then, the plaintiff asked, was he to prove his case? The defendant (the petition submitted) could not have more onerous duties than His Excellency, the Right Hon'ble the Governor of Madras, who appeared only the other day as a witness in Court. The defendant, as well as the plaintiff, would be under the protection and control of the Court, and it was assuming too much (the plaintiff submitted) to suppose that the Court would permit any question which had no other object but that of insulting the party under examination. The plaintiff therefore prayed that the defendant might be compelled to attend and give evidence in justice to the plaintiff and the public.

On reading this petition the Court ordered that, 'considering the peculiar circumstances of the case, it was desirable that the defendant should appear in Court and give his evidence. The Court had no doubt that his Pleaders had been duly instructed on all points, and would be able to answer all questions bearing upon the case; but those answers could not take the place of the defendant's sworn testimony, which would be entitled to more weight, especially as the plaintiff himself wished to have such testimony upon record. It was, therefore, decided by the Court that the defendant must appear and give evidence; but, at the same time, he might be quite assured that the Court would not allow him to be insulted so long as he was in the witness box. As for the plaintiff's prayer that the defendant might at once be required to produce certain documents in his custody, and that they might be initialled by the Court, the application was considered informal by the Court. The petition of the plaintiff was admittedly presented under Section 162 of the Civil Procedure Code, and that Section, the Court was of opinion, clearly did not provide for this procedure. If there were any other provision of the Code under which the plaintiff could make an application on this matter, the Court said he was quite at liberty to do so.

On the 10th May the plaintiff, Mr. Muttukistnan, put in a petition objecting to certain interrogatories proposed to be sent to the printer and publisher of the Madras *Athenæum and Daily News*, on the ground that anonymous newspaper comments were no evidence. Should, however, the defendant consent to newspaper articles being put in as evidence against defendant, especially those relating to this very case, the plaintiff stated, in his petition, that he had no objection to receiving the paper at once, a copy of which the plaintiff himself would furnish defendant, without going to the trouble and expense of sending interrogatories.

With reference to this petition the Court was of opinion that such newspaper comments being hearsay would no doubt be no evidence at all, when the object of the party requiring their production was to prove thereby anything beyond their publication. But here, the Court thought, the defendant had no such object. He simply wished to make out as a fact the publication of the article in question and then show that it, wholly or in part, affected the plaintiff's practice. For the defendant might very well say "it is not my acts which endamaged the plaintiff altogether. The publication of the article produced such an unfavorable impression of the plaintiff on the public mind as to create a general distrust in him, and this has caused the loss of practice complained of." The Court, therefore, thought that the article was admissible as evidence only for the purpose above indicated, and adhered to its former order. As for the plaintiff's proposal to produce newspaper comments as evidence against the defendant, the Court thought it 'needless to make any order on the subject now.' When such comments were produced, it would be time to decide whether they were receivable or

The Madras Mail - 2d July

THE MADURA CAUSE CELEBRE.

(From our Special Reporter.)

MUTTUKISTNAN *vs.* GOLDINGHAM.

(Before the Principal Sadr Amin of Madura.)

28th May 1872.

PLAINTIFF'S 1st WITNESS.

J. D. Goldingham, examined by the Plaintiff.

I came to this district as Acting Civil and Session Judge in October 1868. When I arrived I paid a visit of ceremony to Mrs. Muttukistna. I have not the slightest recollection of having on that occasion said, "I am afraid you will think me an unprofessional Judge." I do not recollect whether I called upon plaintiff on the Hills with Mr. Daniel. When plaintiff was leaving the district for England, I went to inspect his piano. I did not see plaintiff there, I certainly did not complain to anybody that the plaintiff ought to have come down and shewn me civility. I did not send word to plaintiff by Mr. Fondclair that the plaintiff did not address me often enough as "Your Honour." If I did, I have no recollection of having done so. I have heard the document A read out. When I say there that the plaintiff has not "thought fit to represent the fact," I mean the fact of his departure to Europe.

Q.—You say in the order "under other circumstances." How can other circumstances which did not arise in my case be applied to it?

A.—I don't understand the question. The word "jurisdiction" in that order must have been altered into "control" since the plaintiff's return from England. The figure "100 Rs." was altered into 50 Rs. nearly four months after the date of the order. The words "Section 14th of the" were also inserted at the same time. B is a copy of my order made in my office, and signed by the Sheristadar, and made under my authority. I never saw it before. C is signed by me. The words "no corrections" at the foot of D mean, that there were no corrections in that copy, not that there were no corrections in the original. There is a foot-note appended to the document D, that there is no appeal from it. The order appended to D directing the Nazir to collect the fine was made on the 27th June, the date it bears. It is absolutely impossible for me to say at what hour of the day the order was passed.

Q.—Will you swear that you did not make these alterations after the warrant was served upon me, and the fine was collected from me, viz., importation of "Clause 2, Section XV., Regulation XIV. of 1816"; I mean the interlineation of words, "Clause 2 Section XV." into E?

A.—There is no importation of any sort.

Q.—D and E are dated 27th June. In the lower part of D reference is made to only one order of 6th March. But in E, there is a reference made to an order of the 6th March and 7th June. How do you account for this difference?

A.—The order referred to in the lower part of the document, is a distinct order passed on the 27th June, the date it bears. It is impossible for me to remember the hour at which the order was passed. F is the original warrant served upon plaintiff, of which E is an authenticated copy. E and F are totally different from D, which is the order written by me. F was prepared in my office and signed by me. The allusion in F to an order of the 6th March and 7th June is an allusion to the two orders embodied in D. But in E and F the latter order is referred to as the order of 7th June. This 7th June is a clerical error for the 27th June. The Court was adjourned on the 7th June, therefore the order could not have been made on that date. There is no importation of any kind. I believe F must be the original warrant served upon the plaintiff.

Q.—Can you swear that when that document was issued to be served upon me the interlineation "7th June" was there?

A.—At this distance of time I cannot positively swear when the alteration was made. My impression is that it was made before the paper left my office. But I cannot positively swear to it. I know nothing about the document G shown to me, and I never saw it before.

(Here defendant's counsel objected that this document was not in evidence, although it had been produced. Plaintiff answered that his object in putting it into defendant's hands, was to prove it. The objection was overruled, and the document ordered to be shewn to witness.)

Q.—Look at that document, compare it with the original and certified copies, and tell me whether you are prepared to swear that it is not a correct copy of the warrant as originally issued from your office?

A.—Not having seen it before, I cannot swear to anything about it.

Q.—Are you prepared to swear that G is not a correct copy?

A.—I cannot, as I never saw it before. I have compared it with the original. I cannot swear to anything about it. After the fine had been paid I never sent any [illegible]

Q.—Did you send me word that if I sent a letter of apology, the Sheristadar would read it in open Court, the fine would be remitted, everything would go on well, and I would get back my practice?

A.—I sent no much message. Before I made the above alterations I never talked over the matter to the late Principal Sudr Amin, Muthusawmy Chetty.

Q.—Did you ever talk to the late Principal Sudr Amin about these orders?

A.—I can recollect no conversation in particular.

Q.—Do you remember any conversation?

A.—I cannot recollect any conversation.

Q.—Then why did you say "in particular?"

A.—Because I had a conversation with him on the subject of libels sent up by the plaintiff to Government against me, and in that conversation I might have alluded to their author. I have been called upon by the plaintiff to produce the explanation sent in by me in reply to his memorial to Government against me, with reference to the order of 6th March. That explanation is in the Government Office. I have not been called upon to produce the draft. It is, I suppose, in my office. I have a copy of it, but I decline to produce the copy.

Q.—Did you tell any one, after you passed these orders against me, that you would not have passed them, if I had not spoken against you to the authorities in England?

A.—Certainly not. I never received a letter from my father, in which plaintiff's name was mentioned. He never wrote to me that plaintiff had been speaking against me to the Duke of Argyle. I never heard that the plaintiff had been speaking about me to people in England or to any authorities, till I received his memorial against me to Government. I never authorized Vencatasawmy Naidoo to speak to the plaintiff, or to Colonel Roberts, about this suit. I never said to Veucatasawmy Naidoo that I passed these orders against plaintiff, because he was opposed to me. I never wrote a letter to the Collector about the Ayakudi cases. Nor have I received a notice to produce a copy of such letter. I have not got a letter written by plaintiff to a vakil of the Munsiff's Court, intimating that my orders against plaintiff had been reversed. I have become acquainted with the existence of such a letter since the institution of this suit. I cannot swear to it. It is impossible for me to charge my memory with it.

Q.—Can you swear that you did not make a brother of the above vakil, a vakil of your Court, since you obtained possession of the above letter?

A.—I never obtained possession of that letter. I have no data to enable me to say whether I made the above appointment after I became aware of the existence of the above letter.

Q.—How many vakils have you appointed since the High Court reversed your orders against me?

(The vakil for the defence objected that the question was irrelevant The plaintiff explained that his object in putting the question was to shew that the defendant, since he received the order of the the High Court, had been anxious to get him (plaintiff) out of the district, and that with this object he had appointed about thirty-five vakils, many of whom were unpassed men, to take practice away from plaintiff. The question was disallowed as irrelevant.)

Examination continued.—I never wrote to Government recommending that Ramasami Pillai should be appointed to act as Sheristadar of my Court, or be confirmed in that post. Nor was there any order of Government on the subject. I appointed him acting Sheristadar, I don't remember when, or for what period. I don't remember when I confirmed him in that post. I do not remember whether I confirmed him after plaintiff appealed against my orders.

(On the deposition being read to witness, he intimated that he remembered the Sheristadar had been confirmed some two or three months after the plaintiff had appealed against his order.)

During the last adjournment, I appointed my Sheristadar a commissioner, and that was before it was known that plaintiff was coming out again to India. It was in Fondclair's case I appointed him commissioner. I did not hear of plaintiff's return to India till he had almost arrived. I did not hear that plaintiff was coming back when I passed the orders against him on the 6th March.

Q.—Why did you pass the order after I had been eighteen months away, and when you did not know whether I was coming back to practise at all?

A.—I passed the order for the following reasons. Plaintiff left Madura leaving certain business behind him. I always intended to take notice of it if he returned to the country. At the beginning of 1871, another vakil went away on business. He reported his departure, but the Court was put to a great deal of inconvenience in consequence of his departure, as he was a vakil who had the monopoly of business at that time. I was very much annoyed at this on public grounds, and the plaintiff's absence without leave came back to my recollection. At that time I received the Draft Bill of an Act relating to vakils, and I doubted if that Bill became law whether I could deal with the plaintiff's absence in the same manner as I thought I could under the Regulation of 1816. I therefore drafted the proceeding of 6th March, as a mere formal order, intending to take notice of it, if necessary, on plaintiff's return to Madura. I received no petitions during the plaintiff's eighteen months' absence, complaining that he went away leaving business behind. When I passed the order of 6th March, it occurred to me that I must

absence, I think I ignored his existence. The fact that plaintiff left business behind, did enter into my consideration when I made the order of 6th March. I cannot say why I did not refer to the matter in the order. It did not occur to me. I dare say it was an incomplete order. When I passed the order of 6th March, I did not look into the Regulations. I passed the order in the Court where there is a copy of Acts and Regulations. It was when I passed the order of the 27th June that it occurred to me for the first time that I must consult the Rules and Regulations.

Q.—Did you then study the Regulations?

A.—I consulted them. I cannot say I studied them, which means going into them deeply.

Q.—Did you look into the books in your office, to see whether Regulation XIV of 1816 had been modified by any subsequent enactments?

A.—I must have seen the modified Regulation, because it is in a foot-note, I believe, to the old Regulation.

Q.—Did you refer to that modified Regulation?

A.—I can't say.

Q.—Can you give any intelligible explanation as to why you changed the fine from 100 Rs. to 50 Rs.?

A.—I did so because the fine of 100 Rs. under Clause 2 refers to disrespect shown by a Vakil to a Judge in open Court; and a fine of 50 Rs. in Clause 1, has reference to a Pleader's absence from Court without leave. I did not refer to Act XX of 1853, because I did not consider it necessary. I first came to know that the plaintiff had applied for copies of my orders either on the 26th or 27th June. I passed the order H refusing to give copies till the plaintiff had apologised, because I wished him to attend the Court in person. I did not embody that wish in the order, because I was busily engaged in the Criminal Sessions, and I wrote the order in a hurry.

Q.—Did I not come to Court in person according to your wish?

A.—To my knowledge you did not. I heard afterwards that you had come to the Sheristadar. I can't say exactly when I heard this. I did not attend Court from 28th June to 1st July, both days inclusive. As soon as I came to know that plaintiff wished to appeal I ordered copies to be given him. When I received plaintiff's first application for copies, I did not positively know to the best of my recollection, that he was going to appeal. As Civil and Session Judge I have had some correspondence with Mr. Davies recently about Mr. French, but I decline, in my official capacity, to produce copy of such Correspondence.

Examined by the Court.—The Correspondence has not the slightest reference to the plaintiff's case or to the plaintiff. I decline to produce the proceedings of the High Court on the subject. I have not produced the plaintiff's sunnud, because it was never returned to the Court. I can't swear that it was not returned when Mr. Thomas was Civil and Session Judge, because I was not here then. There is no list of returned sunnuds kept. I have brought Mr. Robert Fisher's petition requesting his sunnud to be recalled, that was the only instance on record. I have had the records searched, but could not find plaintiff's sunnud. I know the section of Regulation XIII. of 1816 which requires that when a vakil dies, is removed, or resigns, the same should be notified. I can't say whether it is strictly acted up to; you must ask my Sheristadar. I decline in my public capacity to produce the proceedings of the High Court, dated 29th March 1871. I never kept a copy of a letter I wrote to Mr. Mayne on hearing that the High Court reversed my order suspending and fining the plaintiff. I have written two letters on the subject to Mr. Mayne, and I will have no objection to state the contents of both as far as I can remember. I don't wish to say whether plaintiff may or may not produce any correspondence between him and Mr. Mayne; my case is in the hands of my vakils.

Examination by Plaintiff resumed.—You have given me notice to produce certain letters which passed between Mr. Mayne and myself. Have you any objection to my producing other letters to explain the origin of those letters?

A.—My case is in the hands of my vakils. It is safer for me to leave the matter to my vakils. There were no proceedings sent to me by the late Principal Sudr Amin concerning my Nazyir Nazir, and if there were any, they are wholly irrelevant.

Q.—Do you swear that there were no proceedings sent to you by the Principal Sudr Amin?

A.—I do. There were no proceedings, and no public proceedings of the kind took place.

Q.—Whether you call it a proceeding, investigation, or in enquiry, was there any such thing instituted by the late Principal Sudr Amin?

A.—He took some statements and sent them to me.

Q.—Have you those statements with you?

A.—I decline to answer the question because it is irrelevant, and because I have not been asked to produce those statements.

Q.—Have you got a letter printed in England and addressed to Lord Napier about the administration of justice in Madura?

A.—I have the pamphlet. I don't know where it was printed. I have the very copy that the plaintiff gave to Lord Napier, at least I believe so, because it bears the plaintiff's endorsement that he submitted it to Lord Napier. It was given to me, but I can't positively swear who

say who gave it. It came into my hands between the 1st and 21st August 1871. I might have said to Mr. McQuhae and Mr. Davies that I believe that the above pamphlet must have been abstracted from plaintiff's desk. I do not remember saying so to Mr. McQuhae, but I remember saying so to Mr. Davies.

(The witness on hearing the deposition read said that the answer must be amended thus "I remember saying something of the kind to Mr. Davies.")

Q.—Did you speak to the Acting Collector about my engagement in the Ayakudi Case, subsequent to your order fining me, and subsequent to my memorial to Government against you?

(Defendant's Vakil's objected that this question was irrelevant, as anything done subsequent to that order could not be received as evidence of the existence of malice at the date of the order. Question disallowed.)

Examination continued.—I have heard the 6th para. of my written statement read out; I cannot state exactly without reference to papers how many cases the plaintiff had before me.

Q.—Do you assert it as a fact that I had failed to secure practice because of my character having become too well known?

A.—I assert it as a matter of opinion, which I am entitled to set forth, and prove in mitigation of damages under the law of evidence. I had no conversation with the Acting Collector regarding plaintiff on any subject, until after the return of the Acting Collector from the Hills, I believe until after the plaintiff's memorial was disposed of *i. e.*, 31st August 1871. That is my belief. I have had no conversation with Mr. Smith, in which I could have alluded to plaintiff's character in any way. I may have done so to Mr. Davies, when I showed him the plaintiff's memorial against me. I know Vencatasawmy Naidoo; occasionally he pays me visits, perhaps once or twice a year. I know Mr. Sapp. I told him of the plaintiff having sent memorials against me to Government. I said to him also "I wonder why Mr. Muttukistna does not leave the District." I know a Gumastah of the plaintiff now produced before the Court as Soobarayaloo Naidoo. I saw him but twice, I passed him when returning from the Hills on the ghaut on the 4th January 1872. I don't remember having asked him why his master did not leave the district. I can't swear whether I did so, or not. I swear that I never told this man to go and inform plaintiff that if he behaved well towards me he would get back his business. A little conversation passed between plaintiff's Gumastah and me in English.

Q.—Did you say to him, why could not a Barrister call upon the Civil and Session Judge without being asked?

A.—No, I did not.

(Examination in chief closed.)

Madras Mail – 3rd July.

THE MADURA CAUSE CELEBRE.

(From our Special Reporter.)

MUTTUKISTNA *vs.* GOLDINGHAM.

(Before the Principal Sadr Amin of Madura.)

28th May 1872.

Cross-examination of Mr. Goldingham.—In Easter 1869, I remember walking with Mr. Daniel and Mr. Pole while on the Hills. I remember going into plaintiff's house with Mr. Pole. I remember seeing there the blue book in the great Shevagunga Case, and I remember seeing Mr. and Mrs. Mutukistna at their gate returning from church. Mr. Pole is a brother of Mrs. Mutukistna. Plaintiff returned my call when I was staying with the Collector, the Hon'ble D. Arbuthnot for four or five days after my arrival. I sent word "Master can't see." He has never called on me since. He came on business to Mr. McWatters once, when he (Mr. McWatters) was staying in my house, and I was then absent. The reason why I refused to see plaintiff when he called was, that I never allowed a practising vakil of my Court to come to my house. I believe that I made the two alterations in the order A on the 26th June: it might be on the 27th. It was more probably on the 27th, because on that day I passed what I may call an explanation order, which is appended to D, as to there being no appeal to be added. But it is the practice in the office to enter such notes to copies of orders. In general authenticated copies furnished to parties are never submitted to me before delivery to parties, unless I order them to be brought in any particular case. I did not look upon the order in question as a particular case. I never saw D before it was shown me in Court. It is a copy of my order of 6th March and 27th June. The Civil Court was adjourned in 1871 from Monday 24th April to Saturday 24th June. The Court re-opened on Monday, the 26th, and the Sessions, which commenced on that day, ended on the 8th July. Yesterday when G was put into my hands, plaintiff observed that Norton recommends a party to prove his case by his opponent's evidence. I can't say exactly who appeared on the petition alluded to in H, but some vakil did appear. Plaintiff himself did not appear. I gave instructions to the vakil that if plaintiff appeared in

things all right in the matter of the order of the 6th March. I never intended to interfere with plaintiff's practice. The name of the late Principal Sudder Amin already referred to, is Muttusami Chettiar.

Q.—Did you in the conversation you had with Muttusawmy Chettiar receive any information which led to your making the statement in para. 6 of your written statement?

(*The question was objected to by plaintiff as an attempt to introduce a purely hearsay matter.*)

The Court —I think that on the whole, it would be desirable to reserve this question till Muttusami Chettiar's examination is over. For all that the defendant could say is, that he heard from Muttusami Chettiar such and such things which led to his introducing into his written statement matter contained in the 6th para. thereof. It would be better if the source of the witnesses' information were first tested. Therefore I allow the plaintiff's objection for the present. Order reserved.

Examination continued.—I have no objection to the Court inspecting my copy of the explanation I sent up to Government with reference to the alterations. I decline to produce it on account of plaintiff's inveterate habit of printing and circulating every bit of public paper he can lay hold of.

Q. Judging from what fell from the plaintiff yesterday in open Court, can you assign the real motive for this suit?

(*Question disallowed.*)

Q.—Do you remember plaintiff remarking in open Court yesterday, that the matter will have to go ultimately before Government, and it will have to be decided whether plaintiff or the defendant should leave the district?

A.—I do remember the plaintiff making such a remark.

Q.—Did not the plaintiff immediately afterwards say, that he made the remark in the heat of the moment?

N. B.—Plaintiff made this remark on the Court observing that the question of removal of either party from the district, had nothing to do with the issues in trial.

Q.—Has not plaintiff made three endeavours to have you removed from this district.

A.—Yes.

(*Plaintiff objected to the question after the answer had been taken down.*)

Examination continued.—I had no knowledge of the plaintiff's memorials to Government against me, until I received them from Government on the 17th July 1871, which was long after my order of the 6th of March, and the memorials were finally disposed of by Government on the 31st August 1871. I never heard at any time before the trial commenced, that the plaintiff had spoken against me to authorities in England. The sealed packet produced by me contains among others a printed paper. It is the pamphlet about which I have been examined by plaintiff. It is dated Kodikanal 18th October 1869, and it has this endorsement in the plaintiff's own handwriting "submitted to His Excellency the Governor in a private and confidential interview, Government House, 22nd May 1871." That is the pamphlet which I said came into my possession between the 1st and 31st August 1871. I fixed these dates by authority in my pocket book, which bears date 24th July, and I remember that I received this printed paper between the date of the despatch of my explanation to Government on plaintiff's 2nd memorial, and the disposal of that memorial by Government on the 31st August 1871. There is a foot note in page 9 of the pamphlet, which I can swear is plaintiff's hand-writing. I notice in that foot note that my name is spelt Gouldingham instead of Goldingham. I kept this pamphlet in anticipation of using it against plaintiff. In that sealed packet, there are two other papers—letters addressed to me I believe in the same hand-writing, with my name incorrectly spelt, as above on the envelope which contained one of them. They came to me by post. II came in an envelope attached to it. III came as it is now. I received II shortly after 19th January 1872, and III two or three weeks after. I give dates without reference to post mark. I have no objection to return the pamphlet to its owner after I have done with it. Muthusami Aiyar is the vakil whose appointment was referred to yesterday, as that of a brother of Munsiff's Court vakil. He was appointed on the 4th March 1872. I must have known Muthusami Aiyar for nearly thirteen years. Before the above appointment, he was a vakil of the Small Cause Court. He is an old vakil, and on reference made by me in regard to another person, the Commissioner of the Uncovenanted Civil Service Examination informed me, that such old vakils need not pass under the new rules. I have not appointed any person who was disqualified in consequence of not having passed. The Sheristadar's appointment is at my disposal, without reference to any other authorities. I declined to appoint Mr. D'Senna, vakil of my Court, because he was an unpassed man. The Sheristadar worked out the Commission during the last adjournment, but he had been appointed Commissioner long before that. My invariable practice as to remuneration of a Commissioner is to consult the vakils on both sides, and then to fix the remuneration with reference to the amount of work expected to be done. The commission given to my Sheristadar involved the mesne profits of a Zemindari for a little

which it was plaintiff's duty to attend, and yet he did not attend, owing to his absence in Europe?

A.—I cannot without reference to papers.

Q.—Were any of the suits in which plaintiff appeared solely?

(*The plaintiff objected to the question on the ground that none of the records of the cases being in Court, the question could not be put.*)

The Court.—I think it very desirable that the records should be produced, and therefore the question is disallowed.

Q.—You were asked to state yesterday, whether you ignored the plaintiff's existence for eighteen months, and you answered in the affirmative. Please to explain what you meant by that answer.

A.—I knew that plaintiff had gone away without reporting his departure. I knew that he was not present on one or two occasions, when in my estimation he ought to have been present. I considered his not reporting his departure a mark of disrespect to the Court, but I took no official notice of it at the time, not knowing that he was coming back to India. I can't analyse the state of my mind beyond that. The order of the 6th March was never pronounced in open Court. When I passed that order I had full belief in my power over the plaintiff under the Regulation of 1816. At the time of passing the order the usual practice of the Court was for vakils to take leave in person, or by a letter. That was a rule of Court as I understand at the time. I had occasion, before passing this order, to consult that Regulation in connection with plaintiff's status in my Court. I studied the Regulation on that occasion, and plaintiff appeared before me and argued the matter. I passed an order then, IV, and to my knowledge it has not been cancelled. Exhibit V is the prior order of Mr. Sharpe referred to in it. Plaintiff never applied to me for a variation of order IV in any respect. This order was passed a few days after my arrival in this District. Plaintiff never made any allegation in my Court of having returned his sunnud. Mr. R. Fischer's application for recalling his sunnud, was in writing, and was disposed of in the ordinary course of business by a diary. VI is a copy of Mr. Fischer's application, and VII is the order thereon. In the ordinary course of business a similar application from plaintiff would have been similarly treated. Mr. Aldritt, an attorney of the High Court, was enrolled as a vakil of my Court. I admitted him; I passed proceedings recalling his sunnud. VIII is a memo. endorsing a copy of my above proceedings to Mr. Aldritt. My draft of the proceedings is missing, and could not be found after a very careful search. I re-called his sunnud, because I considered him unfit, and because he went away without reporting his departure to the Court. After I passed the order of the 6th March, plaintiff never referred me to Act XX of 1853. It is not the practice of my Court to pass orders in Civil matters during the progress of the Sessions. IX is the plaintiff's original application (on one anna stamp) for copies of my orders regarding him, and my order thereon is endorsed on it by myself. I have no personal control over the records of my office. My control over them is connected with my official position as Civil and Session Judge. I purchased a house from Vencatasamy Naick with the permission of Government. I cannot remember the exact time of my conversation with Mr. Tapp. I expressed my surprise at plaintiff not leaving the district, in the same conversation in which I referred to plaintiff's memorials against me. My impression is that those memorials had been then disposed of, but I am not quite sure. As I was coming down the ghaut on the 4th January last, I saw a man passing among my bearers, I asked him who he was, and he said that he was plaintiff's Gumastah, and added that he had intended to come and pay me his respects on the Hills, but that he had no opportunity of doing so. I said that it was lucky he did not for I would have turned him out of the compound. Then he said his master wanted to see me, and asked if he called, would I treat him kindly. I said I never saw any vakil in my house, and moreover the Plaintiff had been sending memorials to Government against me. The Gumastah replied that plaintiff never intended to displease me, and that Lord Napier had ordered plaintiff to send in those memorials. Then the conversation ended. This conversation took place four or five miles down the ghaut. The plaintiff was then at Kodikanal on the Pulneys.

29th May—Cross-Examination resumed.

Q.—In your written statement you have attributed plaintiff's loss of income to "his character becoming too well known in the district." Did anything come before you judicially to justify that?

A.—Yes, it did. It was a letter from Mr. R. Fischer to Mr. J. Fischer, filed as exhibit F in Original Suit No. 11 of 1870, on the file of my Court, and reported in the 6th High Court Report, page 393. I have a distinct recollection of making the interlineation "7th June" in the exhibit F, when the document was brought to me for signature, and recollect it in two ways. The Sheristadar brought first of all another warrant, and I almost signed it without looking at it. My eye caught the words "100 Rs." since altered into "50" Rs. I said "this won't do." "The peon will collect Rs. 100. There is no necessity to mention the alteration in ...

Bring me another warrant." I then read the second warrant throughout, and I noticed the omission of any allusion to my second order of the 27th June. I then made the interlineation 7th June, this 7th June is a clerical error for the 27th June. After my first day's examination, I thought over the matter and the above particulars came to my recollection vividly on my arrival at home. I was puzzled in my examination in chief, owing to the plaintiff having imputed to me importations into documents of new matter. I was all yesterday wishing for an opportunity to make the statement and also asking for it. I am able to remember the above circumstances for a second reason. After the warrant was returned by the Nazir, I never saw the page on which the interlineation exists. The second page on which my signature stands was shown me with a bundle of other papers for signature. I correct the last part of the above statement. I can't say that there was a bundle of papers on that occasion, but generally I sign twenty or thirty papers like this at a time in a day. When I received the pamphlet, it was in my view of it, a libel against me, and I conceived I had a perfect right in law to keep it, or destroy it as I thought fit. When on one or two occasions the plaintiff did not appear before me when he ought to have appeared, I did not pass any order, partly because I did not know that plaintiff was going to return to Madura, partly because it did not occur to me to do so, and partly because I did not expect to be inconvenienced in the way. I was inconvenienced by a vakil leaving the station sometime afterwards.

Q.—In your written statement you say that plaintiff neglected to appear on several days when business in which he had been employed came to be transacted.

A.—I can't recall the state of my mind on each of those occasions. But I always intended taking notice of plaintiff's departure in the event of his return. I made no entry on any of those occasions of plaintiff's neglect. I recorded no order about the vakil, whose absence inconvenienced me, because he reported that he was unexpectedly detained at a place to which he had gone during the Christmas holidays, and also I spoke to the vakil on his return. The original of the Memo. VIII. was prepared on the date it bears, 20th October 1869. There is a book in which abstracts of all petitions and orders thereon are entered. My order about Mr. Aldritt would not be in the petition book, because there was no petition, but it might be in the diary of the day.

Q by Plaintiff.—You say that I never referred you to Act XX of 1853. Is it my duty to teach you Law?

A.—If the plaintiff wished to set me right in regard to that order, and if there was any illegality in that order, and if the plaintiff *bonâ fide* wanted that order cancelled by the Court, it would have been his duty to have appeared before the Court, and urged on my notice the merits of the order. In that case, it would have been his duty to have pointed out any law which rendered that order illegal or inapplicable. I did give notice to the plaintiff through the vakils that he might appear in person. I said expressly that I had no wish to punish plaintiff. If he came to the Court and said he meant no disrespect to the Court I would cancel the order altogether. I told his vakil S. Soobramanian Iyer, to tell the plaintiff so. I did not pass a written order to that effect. I did not know at the time the extent of authority given by plaintiff to his vakil. Vakaluts are written in Tamil, and an English Judge never reads such papers. I don't know that I had authority to send plaintiff a written notice to appear in person. I can't charge my memory with having insisted upon an apology in the message which I delivered in open Court to S. Soobramanian Iyer. I adhere to my statement made yesterday that plaintiff was the writer of II and III.

Q.—Are you prepared to adhere to that statement after I tell you that I am prepared to deny upon oath that I wrote those letters?

A.—Not being judge of the testimony in this case, I decline to answer the question.

Q.—Do you know that the Acting Collector, Mr. McQuhae said that you were a *liar* and a *shallow knave*.

The Court.—I totally disapprove of this question, which unnecessarily assails the defendant's character, and is therefore against my order of the 13th instant.

Examination continued.—I don't know a copyist in my office of the name of Subbien: I may or may not have one. I have looked at Subbien now produced, ~~but~~ I don't remember his face. I don't know whether he was plaintiff's Gumastah. I don't know whether he took leave about the time I got the pamphlet. I don't know why the words "7th June" were left out in F. I did not write the warrant. Of course the order of the 27th June had been written by me before the warrant was issued. In ordering the second warrant to be prepared I gave no particular instructions, excepting with reference to the fine of 50 Rs. I believe it was the Sheristadar who brought the warrant. I am nearly sure it was the Sheristadar. I can't say whether he brought the order with the warrant. Probably not. If he had I would not have made the clerical error 7th June for 27th June. I sent no private message to plaintiff. The intimation was given to plaintiff's vakil in open Court.

(*This terminated*

The Madras Mail – 4 July.

THE MADURA CAUSE CELEBRE.

[*Continued.*]

(*From our Special Reporter.*)

MUTTUKISTNA *vs.* GOLDINGHAM.

(*Before the Principal Sadr Amin of Madura.*)

(WITNESSES FOR THE PLAINTIFF.)

Captain T. K. Guthrie, Superintendent of Police, Madura, Examination by Plaintiff.—I am the Superintendant of Police in this district. I have held the office since September 1867. In that capacity, I have to travel about a good deal in the district, and to communicate with Europeans and Natives of all grades. I have known plaintiff ever since he came to this district. I have no information as to the general reputation of the plaintiff among the people.

Q.—What is your opinion, as far as you know, of my character?

[*The defendant's vakil objected to the question on the ground that individual opinion of character was not receivable, and that evidence of general reputation only was receivable.*]

The Court.—I also think so and disallow the question.

Examination continued.—I have known the defendant ever since he returned from England.

Q.—What sort of reputation does he bear?

[*Defendant's vakil made an objection to the question.*]

A.—I am not in a position to give any opinion for want of information.

Q.—What is his general reputation as to truthfulness?

A.—I can't answer the question for want of information.

Q.—What is his general reputation for truthfulness among Europeans in the district?

A.—Bad.

Q.—Are you aware that the present Acting Collector characterized him as a "liar and a shallow knave?"

[*Question allowed by defendant's counsel, but disallowed by the Court, as opposed to law, in that it would introduce secondary evidence of the opinion of a single individual, which was certainly not evidence of general reputation.*]

Cross examination.—When you said that the defendant's reputation for truthfulness among Europeans was bad, had you any, and what Europeans in mind?

A.—I had some Europeans in mind, but I decline to give their names and position. I had in my mind three or four persons—no,—exactly four, I know and recollect their names. As regards all of them, I say that I have come to the opinion I have expressed about defendant's truthfulness from private conversations in my private capacity. I am not under any promise not to mention their names, and yet I conceive I am under an obligation not to give up their names: I mean a social obligation.

Q.—Do you consider that obligation greater than the obligation you are under as a witness?

A.—Yes. I can't remember how far back the first impressions with reference to the defendant's truthfulness, were conveyed to my mind.

Q.—Can you connect this impression with any special circumstance?

A.—I have no landmarks in my mind by which I can say when the impression began. This impression came to my mind with more or less force at different times. This impression was strengthened at two particular periods. I remember the circumstances in connection with which the impression was so strengthened. Those circumstances had nothing to do with the four persons I have and had in my mind. The second of these circumstances occurred during the last Christmas Holidays. I remember another occasion on which my impression of the defendant's reputation for truthfulness, was strengthened. It occurred about the middle of last year. This is the last occasion. I remember none other. I have no recollection whether the four persons I had in my mind or any of them, had any connection with the circumstance which strengthened my impression as to the defendant's reputation for truthfulness about the middle of last year. In connection with the second circumstance I think I talked with some of the four persons I have had in my mind, at Kodikanal. To the best of my recollection there was nobody present then, but myself and the person I spoke to. It was in the open air that I had this talk. That is the most definite description of the place I could give. I still decline to give up the names of those four persons. I don't know whether the person to whom I was talking will have the same scruples to give up his name. Mr. Snaith, Mr. McQuhae, Dr. Gamack, Mr. Fondclair, Mr. Kenny and Mr. Davies are witnesses in this case as far as I know. Of the persons in my mind, two are among those witnesses. Of the four persons two are now in the district, and those two are among the above witnesses. The exclusion of Mr. Bliss makes no difference in my answer. The two persons out of the district, are alive I believe, but I don't know where they are. One of them has been in England within the last four months.

Q.—Have you ever been in conversation with any one of those four persons about defendant and his bad reputation for truthfulness, when any body else was present ?

A.—My memory does not serve me. All the conversations were strictly private and confidential. I never mentioned to the plaintiff the name of any of those four persons, nor did I give him sufficient information to enable him to discover who those persons were, nor has plaintiff ever attempted to get the information from me, nor does he know who they are. As far as I know, I have been in personal communication with the plaintiff during his residence in Madura. I have had casual conversation with the plaintiff about the defendant, and also serious ones. I had only one serious conversation with the plaintiff regarding the defendant, and that had nothing to do with the administration of justice in Madura. In that conversation there was no attack upon defendant. This conversation took place shortly before (quite within a month of) the institution of this suit. I am on the same conversing terms with the plaintiff as with the defendant. All the four persons whose names I decline to give up, expressed their opinions of the defendant's reputation for truthfulness. I can't recollect whether any of them expressed their opinion more than once. At the time they expressed their opinions, none of them, as far as I know, had any personal difference with the defendant. To the best of my recollection they never had any such difference. There was no discussion of the defendant's reputation for truthfulness, but the impression upon my mind was formed by the tenor of their conversation. So I am not in a position to give the ground of their belief.

Q.—Are you aware whether those four persons are now of the same opinion regarding defendant's reputation for truthfulness ?

A.—To the best of my belief they are all of the same opinion. Something has occurred to indicate that they are still of the same opinion. That something is the receipt of letters and conversations, both of which were private. I can swear that I have not communicated those conversations or the contents of those letters to strangers. I have not shown any of the letters of one of the four to any one of the other, or mentioned their contents. Those letters contained matters other than remarks about the defendant's reputation for truthfulness. I never spoke to the defendant on the subject of those conversations or letters. I am unable to define the present state of feeling of any of those four persons towards the defendant, nor can I indicate it. The state of feelings of two of those persons who are witnesses in the case, is hostile to defendant. I noticed the indication of hostility in both of them by personal observation on one and the same occasion. This was in the open air. It was on a croquet ground ; others were present within hearing, but I can't say which of the persons present were within hearing. To the best of my belief I took part in that part of the conversation, which indicated hostility to the defendant. I did not indicate any hostility to the defendant then. I had a feeling of pity for the defendant. At that time my feelings towards the defendant were neither friendly nor hostile. To the best of my belief the defendant had not a friend within hearing of that conversation. I did not give to the defendant any indication of what took place, nor have I ever intended to do so. My present feelings towards the defendant are neither hostile nor friendly. I was once very intimate with him. It was a private matter which put an end to our intimacy, but it left behind a certain amount of friendliness. The first matter which put an end to our intimacy occurred after the hot weather of last year. Again we became intimate at the desire of the defendant, and by mutual arrangement the friendliness lasted for three or four months. The renewed intimacy lasted till about the beginning of last February. We are neighbours, but in point of intercourse we are not neighbourly. I can't say I can associate any other than the four persons already referred to, with my impression as to the defendant's reputation for truthfulness. The opinions of those four persons were expressed at different times. I have no objection to state the serious conversation I said I had with the plaintiff about defendant. It related to this suit. He spoke to me about it. I was one of those to whom he spoke. I was present when the plaintiff was speaking about the suit. This took place both in my house and the plaintiff's house. I saw the issues in this case, and the list of witnesses, but no other paper. The papers I saw were in my possession for a few hours. They were sent to me for my perusal by plaintiff. I sent the list of witnesses to Mr. Snaith. I rather think I sent him the paper of issues also. Mr, Snaith I believe, is not, on friendly terms with the defendant. I sent the papers on to Mr. Snaith to Ramnad, knowing that he was as curious as myself to know the course of this suit. As far as I know Mr. Snaith's curiosity is just the same as that of other Europeans in the district. I received, I believe, from the plaintiff, in common with other gentlemen at the station, a printed copy of the order of the High Court, reversing defendant's order against plaintiff. Besides what I have already statad, I have another reason for believing the defendant's reputation for truthfulness to be bad. I was present when the defendant was ex-

amined by the plaintiff in the Court. That is the reason. I have none other. I was present only during a part of the defendant's examination. Of course I don't know what effect the other part of his evidence would have produced on my mind if I had heard it. Before the defendant came into Court on the day his examination commenced, Mr. Scott, his counsel, intimated to me that my presence during his examination was not thought desirable. This was intimated to Mr. Snaith also, who was in Court. Mr. Snaith replied that he was prepared to leave at the order of the Court, but not upon the defendant's order. There was nothing offensive in the manner of Mr. Scott's request to me and Mr. Snaith. I was scarcely willing to leave. The whole thing was referred to the Court by me, and we were allowed to remain in Court during a part of the defendant's examination. I have no knowledge of the cause of the difference between Mr. Snaith, and the defendant nor of the cause of its continuance. I was present during a part of the defendant's examination. There was nothing in the statements which led to my last impression of his truthfulness, but it was his manner that has that effect.

Re-examination.—The two witnesses who I said were two out of four persons I had in my mind were thoroughly honourable and upright gentlemen. The other two who are absent are also of the same character. I believe the defendant has not a single friend among the Europeans in this district. I have had several interviews with the plaintiff since the institution of this suit, but he did not in the slightest degree indicate to me what I was to prove. I am the only European gentleman now in Madura, known to the plaintiff since he came to the district. The others are all gone except Mr. Fondclair. In the interviews I have had with the plaintiff since the suit, he never intimated what his other witnesses, or any of them, were to prove. I have certainly never shewn to plaintiff any of the defendant's letters to me.

G. Ramasawmy Pillay, Sheristadar Civil Court, aged 29 years, Examination in chief.—I have looked at the documents B. and C. now shown me. B is signed by me, and it was sent by me or the Head Writer to be served on plaintiff. The defendant was then on the Pulneys. I sent it by the defendant's order. I did not get the order direct to send a copy of the Order of 6th March to plaintiff. The defendant's order was communicated to me by the Head Writer and I acted upon that. C was issued by defendant. The original of B and C was altered. The alteration was made on the day the warrant was issued, but before the warrant left office. I don't remember the date on which the warrant issued. I can't say whether the word control was substituted for jurisdiction on the day the warrant was issued. I don't know whether defendant had a conversation with the late Principal Sudr Amin, Muttusamy Chetty, when he made these alterations in A. The defendant returned from the Hills on the 26th June and the warrant issued on the 27th June. I have a separate room, and therefore I don't know whether the late Principal Sudr Amin visited the defendant in his chamber on either of those dates. I did not see the late Principal Sudr Amin talking to the defendant in his chamber between the 26th and 28th June. I don't know that the late Principal Sudr Amin visited defendant or not on those days. I don't know that B was another order passed on the 27th June. I did not serve it on plaintiff. The despatch book will show that F is the warrant issued for the collection of 50 Rs. from the plaintiff. I saw it before it was delivered to the Nazir for execution. I did not take it to the defendant for his signature. I took a draft warrant to the defendant for that purpose, and also took with me Sloan's Code. I don't remember whether the Judge ordered me to bring the book, but I must have taken it by his order. The defendant wanted the Order of 6th March, and I took it to him. He looked into the book and made alterations in that order. The defendant ordered me to prepare another warrant consistent with the amended order. I prepared one accordingly and took it to the defendant for signature. It was prepared like an execution warrant to produce plaintiff if the money was not forthcoming. The Judge objected to this form, and ordered another warrant simply requiring the Nazir to collect the money. According to this instruction I prepared another draft, and the fair copy (or rather the original) of it is produced as F. When I took this last draft for thedefendant's signature, he passed another order directing the Nazir to execute the order of 6th March. After the defendant initialed the draft warrant I handed over that draft as well as the order made that day to the Head Writer. The draft warrant is in the defendant's office. The warrant F. was delivered to the Nazir by the Head Writer between 4 and 6 P. M. I don't know when the Nazir despatched it for execution. I saw it after the defendant signed it, and before it was delivered to Nazir. Then I noticed an interlineation in it. I looked to see what it was. It was an allusion to read the whole warrant. I have looked at the interlineation now. The date given there is 7th, and not 27th June. The inaccuracy did not strike me at the time. I did not pay particular attention to see whether the date given in the interlineation was correct. There was no red pencil mark then under the interlineation. The defendant never consulted

me, or any vakil, before making the alterations. I don't know when the interlineation was made. I remember that the warrant was returned the next day duly executed. I don't remember the hour. It was in the evening between 2 and 4 P. M. When the plaintiff's Gumasta brought me his first application for a copy of the Order of 6th March, I told him that it was a matter in which the Judge's order was required. I held no communication with the defendant on the subject till he returned from the Hills. During the last adjournment stamped copies were prepared but not delivered to applicants, because, the Court seal was with the Judge who was on the Hills. I heard defendant say in open Court that if the plaintiff made the apology required he (defendant) would cancel the order of 6th March; but I never heard him say that if the plaintiff appeared in person in open Court he would cancel the order. I invariably attend Court when the Judge sits on the Civil Side. I don't remember whether the plaintiff came to the Civil Court on the 26th June last. I remember he came to my room with stamp papers on one occasion, but I don't remember the date. Nor do I remember whether he came to the Court on subsequent days. I don't remember the plaintiff complaining to me that he had never heard of difficulties being thrown in the way of a person wishing to get copies of papers. I can't deny that the plaintiff made such complaint. I did not get ready during the adjournment the copies applied for by plaintiff. I waited for the order of the Judge. As soon as the defendant returned from the Hills I took to him the plaintiff's applications for copies; and the defendant's order thereon was in effect that the plaintiff could not get copies before he apologized. I was not appointed as Sheristadar for any specific period. I was confirmed towards the end of August 1871. In January this year I was appointed Commissioner in Suit No. 8 of 1871 before the Civil Court to examine the Ranee of Shevagungah in the presence of Mr. Mayne and Mr. O'Sullivan. I was paid Rs. 50. In Fondcalr's case I was appointed Commissioner in March or April 1871. I worked as Commissioner during the last recess of the Court. It took me two months to complete the work and I was paid Rs. 400.

30*th May* 1872.

Cross-Examination.—I had been aware before I came into Court yesterday that the plaintiff charged me with having altered certain documents in collusion with the defendant. Before my examination commenced the plaintiff said he believed me to be an honest man, and expected me to speak the truth. After I had signed B, I gave it to the Head Writer myself. The authority communicated to me by the Head Writer in respect of this document had reference to my preparing and sending a copy of the order to the plaintiff. The original of B. and C. is A. The word 'control' was not substituted for 'jurisdiction' either before or after the issue of warrant. The alteration began to be made on the day the warrant was issued. I was present at the time the alteration was made. Yesterday I was not asked about any other alteration, but the one above attended to. When I said that I did not know when B had been served on the plaintiff, I meant that I did not know when the peon delivered it to plaintiff. I have, brought the despatch book kept in the Civil Court. It shows that B was despatched on the 7th June. The order which the defendant wanted when I went to him with the draft warrant and Sloan's Code is a draft order in his own handwriting. A is a true copy of it. The original draft is in the custody of the Head Writer. I saw that draft immediately after the filing of this suit. I took it to the defendant when he asked for it. It was that draft he altered. Alterations in A are in the defendant's hand-writing and they were made on the same day, the original draft was altered *i. e.* on the same occasion. When the defendant told me to prepare another warrant consistent with the amended order he meant that the Rs. 50 must be put for Rs. 100. The alterations in A existed when I took to the defendant a draft warrant in the form prescribed for execution of Decree. Draft of F was in my hand-writing. It is in the Civil Court. I have not brought it with me. When I saw the interlineation of 7th June in F. I saw also an interlineation in the draft warrant prepared by me, alluding to the Proceedings of 27th June. There the latter date was correctly entered. That paper is with the Head Writer. When I said I did not know when the interlineation was made, I meant the hour. I don't know when the warrant was returned to the Nazir by the peon. The plaintiff's first application for copies was not presented to me. I found it among papers received on that day. I don't remember the date, nor what officer recorded the papers on the day this application was presented. The plantiff's Gumasta to whom I said that the Judge's order was necessary for granting copies referred to in plaintiff's first application is most likely Ulagasundaram Pillay. I don't remember the date on which the above conversation took place. At that time there was no order of the High Court authorizing the Sheristadar to grant copies during adjournment. That order came into existence in March 1872. I was appointed Commissioner to examine the Ranee of Shevagunga at Mr. Mayne's request. I was appointed Commissioner in Fondclair's case

at plaintiff's vakil's request. I have produced vakils' applications for leave from 11th June 1868 to 16th August 1871. Orders were passed on some of them, and they were acted up to. The despatch book of the Civil Court shows that VIII was despatched on the 20th October 1869 and XII is a true copy of it.

Re examination.—Alterations in the draft order of the 6th March were made between 1 and 2 P. M. I don't remember whether any body else besides me and the defendant was present when those alterations were made. I prepared the draft of F. Alterations appearing in F were also made in the draft by defendant. I did not see him do it. It must have been made when the Head Writer took the fair copy F for signature. I don't remember whether any body besides defendant and myself was present when the alterations in A were made.

Mr. McQuhae Acting Collector of Madura examined.—There are no such documents in my possession as were mentioned in the summons sent to me. The document J now shown me, is a letter from me to plaintiff. After that letter the defendant might have casually spoken to me about the plaintiff in private conversation, but not formally. There was no serious talk. In that conversation the defendant may have observed that in knowledge of law the plaintiff was not quite so good as some of the other pleaders of his Court. As this took place about nine months ago I cannot swear to the precise words that passed. The Sheristadar of my Cutchery, never told me that the defendant did not wish that the plaintiff should be retained in those cases. After my letter to the plaintiff the defendant never wrote to me publicly or privately on the subject.

Cross-examination.—I came to this district in May last year. The Naikkaraputty minor's estate is not directly under the management of the Court of Wards. A relation of the minor manages, and submits his accounts to the Board of Revenue through me, and we see that the accounts are right. I did not employ the plaintiff, because I have employed another pleader, who, I believed, would be more acceptable to the friends of the minor, who are seeing the suits through Court, and we have given over charge of the estate, and have nothing to do with the suits. I employed another pleader, exercising my own discretion; and between that and defendant's conversation with me about plaintiff, there was an interval of about two months. I was perfectly at liberty, like any other private individual, to use my own judgment in the matter.

Q.—Did you ever say that the defendant was "a liar and a shallow knave?"

(*Question disallowed*.)

Mr. Joseph Johnson Head Writer of the Civil Court examined.—I am the Head Writer of the Civil Court, as such it is not my duty to compare copies granted to parties with originals. I have looked at the document A now shown. I saw it before, that was when the Judge passed it. I don't remember the date on which I saw it I must have seen it in the same month in which it was passed. That must have been on the day it was passed, or the day after. I know a copy of that order was to be sent to England to the plaintiff. I did not carefully read over the original D which is a copy of the order of 6th March, and also of the order of 27th June, for the collection of the fine, appears to have been compared by C. Subbramania Iyer, 2nd Writer, and not by me. I put my signature to English copies according to the order of the High Court. When D was prepared I knew that the plaintiff was going to appeal. I signed it without comparing it with the original. A copy of the order of 6th March was sent to plaintiff's address in English. I remember comparing that copy with the original. It was a true copy.

I have looked at the document C. It is the copy sent to the plaintiff to England. The fine of Rs 100 therein referred to was reduced to Rs. 50 subsequently. I don't know when the above alteration was made. I know as a matter of fact that Rs. 100 was altered into Rs. 50. I was not present when the alteration was made. I compared the warrant F first, and then got it signed by the defendant. I compared it carefully. The interlineation in it was made by the defendant himself, when it was taken for his signature. I saw him make the alteration.

By the Court.—I have not the order before me to which the interlineation refers.

By Plaintiff.—That order was in existence then? It was in my desk. I had read it. But at the time the interlineation in F was made I did not remember the correct date of the order referred to in the interlineation. I don't remember the exact date on which the defendant returned from the Hills after the recess in last year. XIII is the original draft from which F was prepared. There is in it an interlineation in the defendant's handwriting with reference to the order of the 27th June. This interlineation was made at the same time as in F. There is a fee charged to parties for remunerating the Officer comparing certified copies. The Deputy Writer does that work. I compare office papers.

Kishnaiengar, Nazir of the Civil Court—Examination in chief.—I am Nazir of the Civil Court. I remember that the Warrant to collect the fine from the plaintiff was issued on the 27th June 1871. It must have been given to me for execution in the afternoon, but I do not remember the hour. I read it carefully before I sent it to be executed. I noticed an interlineation in it. It was not my duty to bring it to the notice of the defendant that there was any error in it. I did not then observe any error in it. The Warrant was returned next day by the peon. I don't remember the hour. I did not read it when it was returned by the peon. I made the usual return and sent it to the Sheristadar's Office.

With reference to the foregoing evidence, it may be as well to give *in extenso*, the Order of the Court on the 13th May, upon certain interrogatories put by the Plaintiff on the file of the Court. The order was summarised by our Reporter, but is given in full by the *Madras Times* of this morning. It is as follows :—

Order.

In certain interrogatories put in by the plaintiff in this case for the examination of some of his absent evidences, he has introduced questions, answers to which will be evidence of the defendant's general character for integrity.

The Counsel for defence object to these and similar questions on the ground that no evidence as to the defendant's character is admissable in this case inasmuch as that matter is not now in issue.

It is a well established rule that evidence of the general reputation of a party is not receivable except when it is put directly in issue. It becomes, therefore, necessary to enquire whether the defendant's reputation for integrity is in issue in this case. The plaintiff seeks pecuniary compensation for damages said to have been sustained by him in consequence of certain official acts of the defendant alleged to have been done without jurisdiction and through malice. The defendant pleads among other things that the acts complained of did not produce the effect sought to be annexed to them, and that there was an extraneous fact which, wholly or in part, produced the alleged loss of practice, viz., that the plaintiff had lost the confidence of the people.

Upon these allegations I fail to see how evidence of the defendant's general character for integrity could be allowed to be introduced into this case. It is a matter purely collateral to the issues involved in the suit. If the plaintiff affirmatively makes out his case, he will be decreed such damages as the Court may think proper, but if his evidence fails, of course he will not recover. In either case what matters it whether the defendant's general reputation for integrity is good or bad? In fact, I have been unable to discover a single instance in which a plaintiff has been allowed to assail a defendant's character aggressively, though, as in this case, defendants have been allowed in more cases than one to produce evidence of plaintiff's general bad reputation in mitigation of damages.

It has been said by the plaintiff that the verified statement of the defendant, who holds the office of Civil and Session Judge if uncontradicted will prove prejudicial to the plaintiff in certain quarters, and that the plaintiff must, therefore, be allowed to prove that the defendant is not trustworthy. Whatever weight such an argument may carry in a non-judicial investigation, yet it is not sufficient to warrant a Judge going into a collateral matter, with a view to avert some ulterior inconvenience to a party which may or may not occur at all. I would observe that the defendant's statement unless satisfactorily made out, will not in any way influence either this Court or the Courts of Appeal before which this case may go, nor will it prejudice the Benchers of Lincoln's Inn against the plaintiff.

Again the plaintiff says that by proving the defendant's character for integrity to be bad, he wishes to show malice on his part, and his explanation is this, "The defendant knew I was in communication with authorities in England and in Madras, and that I expressed strong opinion as to the manner in which justice was administered in the Civil Court, and therefore the defendant passed the order for the express purpose of getting rid of me from the District." Here also I cannot concur in the learned plaintiff's views, the connection between want of integrity and malice, being in my opinion, very remote. A man may be completely devoid of all sense of integrity and yet to effect a most malicious purpose, make use of a most undeniable fact. Equally, a thoroughly conscientious man blinded by prejudice may make use of a circumstance, having no foundation in truth, *bonâ fide* believing all the time that that circumstance was a real fact. I therefore think that evidence of the defendant's alleged want of integrity, even if proved, will not in any way affect the real merits of this case.

In conclusion, I would observe that it is vexatious enough for a man to be dragged into a Court of Justice as a defendant, but when it is proposed unnecessarily to expose to the public the history, real or imaginary of his life, I think the Court is bound to protect him. So, again, on grounds of public policy such questions ought not to be allowed. For otherwise a single suit may ramify itself into a hundred questions quite collateral to

The result is that I must disallow the questions proposed by the plaintiff as to the general reputation of the defendant for integrity.

I am sorry that a question of this kind was allowed to be put to Mr. McWatters, but the subject came before me quite unawares, and I was not able at a moment's notice to consider it in all its bearings, nor were the counsel for the defence prepared to argue the matters so thoroughly as they have done now.

Interrogatories for the examination of the Honorable J. D. Sim, Member of Council, Madras, Plaintiff's 23rd witness.

1. You are senior Member of Council ?
2. Do you know the defendant Mr. Goldingham, and how long you have known him ?
3. What sort of a character does he bear for integrity ?
4. Do you recollect saying to any one that his (defendant's) character was so bad that you had never broken bread with him and never shall ?

Interrogatories for the examination of Mrs. Bower, widow of the late Revd. J. Coyle, Black Town, Madras. Plaintiff's 27th witness.

1. Are you the widow of the late Revd. J. Coyle of Ramnad ?
2. How long were you and your husband in the Ramnad District ?
3. Was the defendant, Mr. Goldingham, Small Cause Judge then ? &c.
4. Do you recollect talking to me about Mr. Goldingham some years ago ?
5. What was his (Mr. Goldingham's) general character for integrity ?

Interrogatories for the examination of Lieutenant H. Porteous, Superintendent of Police, Paulgot, Plaintiff's 26th witness.

1. How long were you in the District of Madura, and in what capacity ?
2. Had you occasion in your official capacity to travel about a good deal ?
3. Do you know the defendant Mr. Goldingham ?
4. Have you appeared often in his Court ?
5. Were you not very much dissatisfied with the manner in which justice was administered in the Civil and Session Court of Madura during the time you were here ?
6. Did you not say that you would never go into that Court if you could help it ?
7. What was Mr. Goldingham's (defendant's) general character for integrity ?

The Madras Mail - 5 July

THE MADURA CAUSE CELEBRE.

[*Continued.*]

(*From our Special Reporter.*)

MUTTUKISTNA *vs.* GOLDINGHAM.

(*Before the Principal Sadr Amin of Madura.*)

Mr. J. A. Davies, C. S., formerly Assistant Collector of Madura, and now of Bellary, examined.—I was an Assistant Collector and Magistrate here for nearly seven months. During that period the plaintiff appeared before me in criminal cases from time to time. In the Tiroomungalum Sub-Magistrate's case, the plaintiff hardly appeared before me, it being a departmental enquiry. The plaintiff appeared and assisted the Sub-Magistrate. Whenever he appeared before me he behaved with proper respect to the Court. I know the defendant.

Q.—Are you in a position to say from what passed between you and the defendant, from time to time, that he had a strong personal feeling against the plaintiff ?

A.—There was a strong personal feeling, but I cannot say from what cause. The defendant spoke to me about a printed pamphlet, addressed by the plaintiff to Lord Napier. I don't remember the exact words used by the defendant. I was in Court during a part of the defendant's examination on the first day.

Q.—What is his general reputation for integrity, honesty, and conscientiousness, as far as you know ?

(*Question objected to and dissallowed as irrelevant with reference to the order of the 13th ultimo.*)

Cross-examination.—I joined this district on the 1st July last year. I saw the defendant officially on the same date. I took my oath before him, and went away, and had no private conversation with him. The defendant was engaged in Session work. Some three or four weeks after this, I called upon him at his house. It was a dinner party. There was some talk about a memorial by the plaintiff to Government against the defendant. Before that I had never seen the defendant in our private capacity. I think that at that time the defendant's answer had gone up to Government, and an order was awaited. I cannot remember whether or not there was anything said to me by defendant indicative of the existence of any other cause of hostility besides this memorial. From my intercourse with the defendant I certainly had reason to think that there was a prior cause of hostility on the part

of the defendant, besides this memorial. The defendant and myself were talking, I should think in September or October, over a pamphlet written by the plaintiff against the defendant. Our conversation lasted for about an hour, and from this conversation I learnt that the pamphlet was a prior cause of hostility. This conversation took place in the defendant's study upstairs in his house, between 11 A. M. and noon. On that occasion I think I saw the order of Government on the plaintiff's memorial. I have no idea, from what the defendant said when he got the pamphlet. Now I begin to think that he got the pamphlet after the memorial had been sent to Government from the fact of the defendant reading the whole pamphlet to me, and from there being in it marginal notes (I don't know whose); and from his not showing me the memorial I inferred that he must have got the pamphlet more recently. From anything that the defendant said on that occasion, I could not say how far back hostility on the defendant's part commenced. I have not been in communication of any kind with the plaintiff about the defendant. I have had no serious conversation with Captain Guthrie about the defendant. I do not know how I came to be made a witness. I was cited by the plaintiff to produce a document. I never communicated to the plaintiff the contents of the defendant's private letter to me about Mr. French. I have not seen any of the papers connected with the suit.

Re-examination.—The defendant did not put the pamphlet into my hands. The defendant's private letter about Mr. French became afterwards the subject of public correspondence.

Mr. J. E. Tapp, European, aged 69 *years, examination in chief.*—I am the plaintiff's agent on the Pulneys, I think the defendant was on the Hills in December 1870 and January 1871. It was generally known on the Hills, that the plaintiff was returning to Madura in February or March. The defendant does not employ me as an Agent, but now and then I visit his house and garden to see that they are kept in proper order. This I do at the defendant's request.

Cross-examination.—I think I received some letters from the plaintiff to the effect, that he would be coming to Madura in February or March. I am not certain of the month in which I received the letter. The plaintiff has not noticed me to produce those letters. The plaintiff has been writing to me frequently both before and after December. Since he left this for England, frequent enquiries have been made as to when he was returning. Different parties made enquiries, and among them some gentlemen who wanted to rent the house. To the best of my belief, the house was last taken on a lease for six months, ending in September, but as the house was not required, the tenant, Mr. Bliss, was allowed to occupy it for two or three weeks longer, and no pressure was put upon him. I don't think that anybody asked for the house after Mr. Bliss left it. I saw the defendant during his stay on the Hills in December 1870 and January 1871. I called at his house simply to see him. I can't swear that on that occasion I had any conversation with the defendant about the plaintiff.

Mr. J. F. Snaith, Judge of the Small Cause Court, Madura, examination in chief.—I am Acting Small Cause Court Judge. I don't recollect when I returned from Ramnad to Madura, I think it was last year about the end of August. I can't remember when the plaintiff first appeared in my Court. After that the plaintiff has often appeared before me, but I connot say when, without referring to the records. The plaintiff continued to appear before me till I last went to Dindigul. I can't remember whether the plaintiff was engaged to appear before me in the case of Burley *v.* Ramalingum in Dindigul. Whenever he appeared before me, he behaved with due respect to the Court. I have no means of knowing whether the plaintiff has recently lost practice in my Court. I have noticed no difference. I have no intercourse whatever with the defendant, and I cannot say what the state of his feelings is towards the plaintiff. I have no means of knowing that the defendant wished to get rid of the plaintiff from the district. It is easy to see from this suit that each of them wished to get rid of the other.

Cross-examination.—The other day, I think, I heard the plaintiff say that he or the defendant must leave the district. I was gazetted to this district on the 4th October 1870. I think I joined the district in November. I know that in a case brought by Mr. French before me, he was examined by the plaintiff. I recollect that the plaintiff did not appear before me in Dindigul in the case of Burley *v.* Ramlingum Pillai. I noticed no difference in the plaintiff's practice till I went out on circuit in January, when the plaintiff did not follow me. His not following the Court has not made any impression upon my mind as to plaintiff's practice falling either one way or the other. It is impossible for me to say what effect the defendant's order had upon the plaintiff's practice in my Court. A printed copy of the High Court's order reversing the defendant's order was sent to me when I was at Ramnad. After the last recess my Court re-opened on the 26th June at Ramnad. Copy of the High Court's order was sent to me with the plaintiff's compliments. I saw at Ramnad the issues, peti-

tions, list of witnesses, and counter-petitions connected with this case. Some of these papers were sent to me by Captain Guthrie at my special request. All of them were sent by him. The papers came in two batches, The first came without any letter. The second was accompanied by a letter of apology for delay in sending. I can't tell when I requested Captain Guthrie to send me those papers. I particularly asked for a list of witnesses to see whether I was cited. The defendant and I are not even on bowing terms. It was both idle curiosity, and the state of my feeling towards the defendant that made me desirous of seeing them. There were also other reasons both of a public and private nature. I have participated in the wish of the plaintiff to get rid of the defendant from the district. I cannot remember having done anything to get rid of him from the district. I have no other sympathy with the plaintiff in this suit than a wish to see justice done, and I hope justice will be done.

Q.—Have you any sympathies with the plaintiff?

A.—I agree with the High Court's order. I wish to see the defendant removed from the district, more on public than on private grounds. His character has been constantly attacked on my croquet ground. On Thursday last there was such an attack made upon the defendant's character by me, and in Captain Guthrie hearing.

Re examination.—There were memorials to Government praying that my Court might be allowed to sit always in Madura instead of going on circuit, and that prayer has been granted. I never directly intimated to the plaintiff my wish to see the defendant transferred. I might have expressed that wish to others. I am a most unwilling witness in this case, and very much regret the evidence I have given.

Colonel Roberts, Superintending Engineer, 8th Division, examination in chief.—I have been in this District a little over a year. I travel about a good deal on official duty, and see a great many people, all classes and races in my official capacity, and I am on intimate terms with most of the Europeans in the District. It stands to reason that the feelings of the defendant cannot be favourable towards any one who, like the plaintiff, has petitioned for the defendant's removal from the District. I have never expressed a wish that the defendant should be removed from the District on public grounds. It is not a fair question to ask me, because all I know of the defendant is hearsay. On the plaintiff's arrival here, after his visit to England, I returned his call. I remember his talking to me about the defendant's order suspending and fining him.

Q. by the plaintiff.—Do you remember my telling you at the time that I would sooner cut off my right hand than apologize to the defendant?

A.—I have a very imperfect recollection of the exact words of that conversation. I know the plaintiff said something of that kind. It is quite possible he used those words. I know Venkatasawmy Naidoo, sub-lessee of Shivagunga.

Cross-examination.—I am intimate with all the Europeans in the district without exception. I wish particularly to put on record that my evidence does not refer to any after-dinner conversation or gossip at the house of private friends.

T. Ram Row, Treasury Deputy Collector of Madura, examination in chief.—I am the Deputy Collector in charge of the Treasury in Madura. I have held my present post for nearly five years. I recollect returning the plaintiff's call shortly after his return from England. I don't remember the plaintiff then showing me the defendant's order suspending and fining the plaintiff. I remember the plaintiff drawing my attention to the figure Rs. 100 in the warrant. As far as I remember it was the original warrant. He showed me another document, which I think, was a copy, and in which Rs. 50 was mentioned as the amount of fine. The peon who brought the warrant, was waiting at the plaintiff's house. I don't remember the plaintiff talking to me about his wife's piano, and my giving him any advice on the subject. I don't recollect the date of this visit. I called at about 7 or 7½ A. M. I don't remember whether the copy in which Rs. 50 was mentioned as the fine, was a certified or a plain copy.

No 197

Kishnasami Iyer, Sub-Registrar of Assurances, Madura, examination in chief.—The witness produced the register in his office containing a certified copy of an Indenture executed by one Doorasinga Taver to Mr. Percy Bloomfield Gough of Messrs. Lecot and Co., of Madras, for Rs. 75,000, under date the 12th August 1870.

The Court on perusal of the above entry found that it had not the slightest connection with the issues before it, and therefore refused to receive the said document in evidence. The plaintiff in consequence of this order dispensed with the examination of this witness, as well as of Doorasinga Taver, the executant of the instrument.

No 198

Vasoodava Pillay, Sub-Magistrate, Madura, examination in chief.—I am a native of Madura. I have been a Sub-Magistrate since August last. The plaintiff appeared before me during that time some seven or eight times. His behaviour before the Court was satisfactory. As far as I know he bears a good character.

Cross examination.—I have formed my opinion of the plaintiff's character judging from the cases in

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THE MADURA CAUSE CELEBRE.

[*Continued.*]

(*From our Special Reporter.*)

MUTTUKISTNA *vs.* GOLDINGHAM.

(*Before the Principal Sadr Amin of Madura.*)

Examination of Mr. Mutukisna, the plaintiff.—On the occasion the defendant called on Mrs. Mutukisna, I asked him if he had been called to the Bar, as I had heard of it. He seemed to be vexed and said, "I suppose you will call me an unprofessional Judge." I said as far as I can recollect, "It is all humbug or nonsense. Some of our best Judges have been unprofessional Judges and some of our worst have been professional Judges." When I told him this I had in my mind a discussion which had been going on in Ceylon about professional and non-professional Judges. I repeat on my oath that Mr. Foudclair told me that the defendant was annoyed with me for not addressing him "your Honor," and I also declare that the defendant was constantly nagging at me, and took every opportunity of introducing observations depreciatory of me. One remarkable instance is the observation introduced in the judgment is the Shevagunga Sub-Lease Case, Section V., H. C. Reports, p. 245. I put in an application for review, stating that I made the statement, commented upon by the defendant, in answer to what had been said by the plaintiff's counsel about the cancelling of the Sub Lease. The defendant never sent word to me that if I came into Court, and said I meant no disrespect, he would cancel the order. Whatever message was sent to me, was to the effect, that I must apologise, and yet I did go personally to the Court on two days to obtain copies, but the defendant was not there. The article in the *Athenæum and Daily News* appeared shortly after some people who came here, and put up with the defendant, returned to Madras. The case referred to in that article had been decided, as far as I can remember, eight months and confirmed on reference to the High Court, about two months before the article. I swear that G is a true copy of the warrant served on me on the 27th June, made in a book which I now produce. G was the only document I had when I went to Madras to appeal, and I swear that the insertion in F of the words "and 7th June" was not there when it was served on me. I carefully compared F and G more than once, and so did my Gomastah, Oolagasundrum. On the morning of the 28th, the Deputy Collector, Ram Row, called on me. I showed him F and B, and drew his special attention to the figures Rs. 100 and Rs. 50. When I said G was the only document I had when I went to Madras, I meant that it was the only copy I had of the warrant. It was put in by me with my appeal to the High Court, and has been returned to me with the Registrar's initials. I appeared before the Civil Court, in August 1869 in O. S. No. 2 of that year. I appeared in O. S. No. 12 of 1867 before the Civil Court in March 1869, at least there is a note on my brief that the case was postponed to 31st March. I appeared also in the defamation case between Ponnaswami Taver and Vencatasami Naidoo before the Civil Court. I cannot state the date, it was in 1869. I am perfectly certain that there were more cases which I can't remember. There are also cases in which I appeared before this Court in 1869, and they are A. No. 151 (no year given.) In O. S. No. 89 of 1868, I appeared in February 1869. In O. S. No. 97 of 1868 I appeared in January 1869 In O. S. No. 68 of 1868, I appeared also in January 1869. In O S. No. 70 of 1868, I appeared in March 1869. In O.S. No. 87 of 1867, I appeared in January 1869 In A, No. 198 of 1868, I appeared in January 1869. In A. No. 213 of 1868, I appeared in January 1869. All I can say as to the above dates is, that they were entered on my briefs, as far as I recollect, by my Gumastah, Oolagasoondrum. In O. S. No. 10 of 1869, before the Civil Court, I was retained to appear only for the first hearing, and I did appear on the 27th August 1869. It was a case, as far as I remember, involving Rs. 30,000. I was paid I think Rs. 300 or Rs. 350, which is about one-third of the regular fee, and to the best of my recollection, it was paid to me by the Small Cause Court Vakil, Vayathinadhier. In O. S No. 2 of 1869 before the Small Cause Court (the Principal Sudr Amin's side) I appeared in August 1869, the note on my brief is "Hearing closed 9th August 1869, and it is in Oolagasundrum's handwriting. I instituted O. S. No. 2 of 1869 before the Civil Court, and attended the first hearing to the final hearing. The case was closed, judgment reserved, and I believe it was not delivered for months and months. I was retained with two other Barristers in that case. Since my return from England the only fee I received between May and 5th August 1871, was Rs. 60. In August 1871 I made Rs. 90. In September I made Rs. 847-8. In October I made Rs. 1,716. In November Rs. 1,572. In December Rs. 1,034. In January 1872 Rs. 1,510. In February Rs. 781. In March Rs. 408. In that month I instituted this suit. In April I made Rs. 225. In May Rs. 480. Almost all these fees were made in other Courts and not in the Civil

or Rs. 400, owing to my attendance in this Court, in this case. My expenses for two trips to Madras to appeal against the defendant's order, and also to consult the Barristers about the institution of this sui came to about Rs. 350. I have paid besides Rs. 400 and odd to Barristers. In the Vellayagoondam case, the moment the defendant took his seat on the Bench, he said "I am not going to hear any vakil," and read out the order which he had already written. The reason why I did not ask for a hearing is, that a man who had fined me when I was far away in England, was much more likely to pounce upon me for disrespect for interrupting the Court, after what the Court had said. There were four suits referred to, as having been brought against Mr. Pole in the cross-examination of my Gumastah, Oolagasundrum. I have heard of only one case brought, I think, by Ramen Chetty. When I left this for England, there was not a single case, as far as I can charge my memory, in which I had not fulfilled my engagement, or in which I had not made some arrangement with my clients. I myself personally returned several fees, and sent for other clients, and left a list with Mr. Pole, with their consent, to pay them as soon as some money which was due to me was recovered. The pamphlet was never submitted to Lord Napier formally. When I had a private and confidential interview, I referred to it now and then, and his Lordship took it from my hands, read it, and returned it to me. I declare that I never wrote II and III, and had nothing whatever to do with them. I declare that I have a distinct recollection, that I returned my sunnud in the time of Mr. Thomas to Mr. Thomas, with a letter.

Cross-examination.—I did not intend to submit No. I. to Lord Napier formally, *i. e.*, officially, that is the sense in which I used the word 'formally' in my examination-in-chief. When I went to Lord Napier, I certainly did not intend to give I. to him. To the best of my recollection that was the only paper I had with me then. When I referred to it in Lord Napier's presence, I did not expect that he would ask to see it, because it was not worded respectfully *i. e.*, it was not in official language, it was more in the style of a newspaper publication. I intended to have sent it to Lord Napier before I left for England, most likely it was prepared on the date it bears, October 18th 1869. I retired from business in Madura in the September preceding. I must have had an interview with the Governor on the date given in my pencil endorsement on I., viz., 22nd May 1871. The pamphlet was printed in England. I decline to give the printer's name. His name was not given in the title page, because the pamphlet was intended for private use. When Lord Napier took it out of my hands I said nothing. I don't remember by whom I sent my sunnud and letter to Mr. Thomas. I don't recollect whether my letter was public, or private. I don't recollect whether I received a reply. To the best of my recollection I received none. I had certainly the most importont reasons for returning the sunnud. I had made an effort to get myself enrolled as an Advocate of the High Court, and I failed in consequence of the informality of my certificate. I then came back to Madura, and applied to Mr. Thomas for a sunnud to practice as a vakil till the informality was rectified by the Treasurer of Lincoln's Inn. I had also another reason. Mr. Robert Fischer was going to become, or had become my articled clerk, and it was necessary, according to rules, that he should remain under me as an Advocate for a certain period before he could be enrolled as an Advocate. Besides, I had no notion of remaining a vakil of the Civil Court when I had the honor of being enrolled as Advocate of the High Court. I have no distinct recollection that Mr. Robert Fischer's intention to become my Articled Clerk had anything to do with my returning my sunnud. I personally argued before Mr. Sharpe the question whether I could appear without a Vakallut. I can't say whether the question of returning my sunnud was then present to my mind, nor was the subject present to my mind when the defendant passed an order subsequently on the same subject. Before my appeal to the High Court, I talked to Mr. Pole about the return of the sunnud. I have no recollection of mentioning it to any other person. I can't say whether I sent the sunnud to Mr. Thomas' house, or to his Court. I don't recollect whether I had any talk with him on the subject. I returned it without thinking at all about the Regulation under which I obtained it. I had read the Regulation. I don't know whether my enrolment as a vakil was announced in the *Madura Gazette.* I don't know whether my ceasing to be a vakil was notified in the *Gazette*, or in any other manner according to the Regulation. I don't know whether, at the time of my returning my sunnud, there was a list kept in the Civil Court, or, whether, there was an attendance roll while the order of the 6th March was in force. I appeared once before the late Principal Sudr Amin, Muttusawmy Chettiar, but he said he could not hear me because I had been suspended by the Civil Judge. I asked him for a written order, but he did not pass one. I can't say whether, while that order was in force, I appeared before the Small Cause Court. My construction of the order is that it had reference to my practising in the Civil Court, and the Principal Sudr Amin's Court, and before the District Moonsiff.

The damages I claim have reference to the loss of practice chiefly in those Courts. I don't include in the amount of damages the loss of practice in the Magisterial Court. I sustained the loss of practice in the Magisterial Courts too. I cannot say, without making an analysis of my fee book, how much I lost by being restricted from practising in the Civil Courts of the district, except the Small Cause Court. I have not made any such analysis up to this. The period for which the Courts were adjourned while the order was in force, did not enter into my calculation of damages. As a rule the income during the adjournment will of course be less than at other times. As a rule, I go to the Hills during the adjournment. I earned nothing during my suspension by giving private advice. I include in the calculation for damages, the expenses of my two trips to Madras, but not what I paid to the Barristers. The remainder of the amount sued for, represents my loss of practice, and the infringement of my privilege to practice. What I claim as loss of practice has reference to the period the defendant's order was in force. I cannot separate the loss of practice from the infringement of my right, and say how much I claim under each head. I won't say now under what Law I appealed to the High Court from the defendant's order. I reserve it for argument. I don't recollect on what date that appeal came on for hearing. But I remember the High Court passed their order some two days after the hearing. I can't say how many days without seeing my papers. I was in Madras from the hearing of the petition of the appeal, to the passing of the order. I put in my documents with my appeal petition. I don't remember the date, I can't say, without referring to Mr. French's letter when I received the documents from him. In my petition of appeal, of which I hold a certified copy in my hand, the documents sent by Mr. French are said to have reached me on the 8th July. I believe that is correct. To the best of my recollection I presented those documents to the High Court. I can't say what documents I put in. I don't know whether other exhibits besides G bear the Registrar's initials, or any endorsement to shew that they were filed, or returned. To the best of my recollection the documents were returned to me after the disposal of the appeal by Mr. Mayne in Madras; at least I think so. Some papers were returned to me in person by Mr. Mayne and others, by post I think. I can't say whether he returned G. in person, or by post. To the best of my recollection I have filed in this suit all the papers which I put in with my appeal to the High Court. There were more than one certainly, but I cannot say how many. I did not put in the petition of appeal. I handed over all my papers to Mr. Mayne, and he presented my appeal. The exhibit I never went into anybody else's hand except the Governor's and Mrs. Mutukisna's. The initials in pencil on the back of it are mine, and I wrote them. I wrote the pencil memo. for my own use and guidance. I cannot say why I initialed the memo., except that I am constantly in the habit of initialing what I write for my own use.

By the Court.—To the best of my recollection the memo. must have been written before Lord Napier saw the pamphlet. In giving the above answers I was under the impression that the memo. referred to was the one in the body of the pamphlet about Ponasamy's dinner. The memo. on the back of the pamphlet was written after Lord Napier's perusal. Most likely it was written on the same day, or within a day or two after. I keep two or three pocket-books. But I don't regularly enter my engagements there. I have not made an entry in the diary about my visit to Lord Napier. I don't keep a regular diary. I keep a diary of important matters. That too does not contain an entry of that interview. I did not keep a memo. of what I did when I went to appeal at Madras. I have ascertained the dates which I promised yesterday by referring to the letter and to my diary. I gave G to Mr. Mayne on the 8th July. I fix the date by Mr. Mayne's letter which I handed in as exhibit XV. That letter is dated the 7th July. As desired by him in that letter, I called on Mr. Mayne on the following day at 8 A. M., and it was there that he drafted the petition of appeal referring to G, and that draft I had put in as V. On that occasion I cut G out of my book and gave it to Mr. Mayne. Either he cut it, or I cut it, I cannot say when I next saw G. I dare say. I saw it again when Mr. Mayne returned it to me. I left with Mr. Mayne B, as well as an extract from Mr. Pole's letter, informing me that I had been fined Rs. 100. I don't think B and G came into my hands until after the disposal of my appeal to the High Court. There is an entry on G with Civil Miscellaneous Petition No. 234 of 1871. I don't know when, or by whom, it was made, nor what the above abbreviation means. I am perfectly certain I put in B with my appeal. I did not put in C. Exhibits D F H I and K. must have been put in. I gave them to Mr. Mayne. I was present when my appeal was brought on for hearing. It was on a Monday. The order was passed on the following Wednesday. I was present then also. I don't know whether the Judges looked into my documents. I received the copies of the documents Mr. French sent to me on the 8th July at 2 P. M. I think most likely I was then at the

Victoria Hotel. Perhaps I left Mr. Mayne at about 10 A. M. on the 8th July. On the 7th or 8th July I received intelligence from Mr. Pole, that the defendant's order, fining me Rs. 100 had reached England. I don't remember precisely when I received that order from England. On looking at exhibit C which is that order, I find on it an endorsement of the date (22nd April) of its receipt in England with Mr. Pole's signature. On that day I must have been between Ostend and Brindisi. I have an entry of this in my wife's pocket-book. To the best of my belief the interlineation in E was made after the 28th June. I find from an entry in my wife's diary, that I received intelligence of the arrival of the order, fining me Rs. 100 in England on the 7th July. My belief is, that the order of the 27th June was not written before the morning of the 28th June, when I paid the fine.

Q.—Did you cite the late Principal Sudr Amin as a truthful witness?

A.—I decline to answer the question. I cited him to prove certain facts which I thought would be in my favour. I don't know whether the order of the 27th June was communicated to this Court and to the District Moonsiffs. I must have received D on the 8th July. I did not attempt to ascertain whether the defendant communicated to the Lower Courts the order of the 27th June. I know Muthusamy Chettiar's hand writing, his signature, and his initials. Exhibit XVI is initialed, "Received 27th March 1871. G. M. P. S. A." I believe that writing and those initials are Muthusamy Chettiar's I can't say that I shewed G to Rama Row on the 28th June. He was not present when G and F were compared on the 28th June; at the time of comparison, he was not in my house. I think he came to see me before the comparison. G must have been then in my office room. F was with me, and I shewed it to Rama Row. I did not know, till the 8th July, that there was an order of the 27th June. that is till I received D. Exhibits M, N and IX are my applications for copies. I made no other written applications. The first and second orders, for which I applied in IX are exhibits V and IV, and the third order referred to in that application is, I believe, that of the 6th March. I was going to appeal then. IX is signed by me. It was brought to me by Soobramania Iyer, I believe for my own signature. I have heard the application M read out. I have no recollection whether I made the previous applications for the documents therein specified. I believe that my reason for saying in M. that I was going to appeal was to induce the defendant to give me the copies soon. Exhibit N is an application for two orders, of which V and IV are copies. For the appeal to the High Court, I wanted copies of the order fining me 50 Rs. of the two orders about the Vakalutnamah, copies of my applications for copies, and of the orders on those applications, as well as the order of the 6th March, fining me Rs. 100. I wanted the copies from 8th June. When I made the applications M and N, I had good reason to believe that there was not a separate order reducing the fine to Rs. 50. These two applications must have been made on the 28th, after payment of the fine. I am sure those applications were written on the 28th. I don't remember the hour I gave these to my Gumastah on the 28th, but I cannot swear whether they were put in on the same day. I can't recollect whether I delivered them to my Gumastah in time to be presented on the 28th. I must have returned the sunnud from Madura, because I came here soon after I was enrolled as an Advocate of the High Court on the 20th April 1868. I can't recollect how many days after that date I came to Madura. Probably I left Madras two or three days after my enrolment. I must have travelled three or four days. I can't recollect how many days after my arrival I returned the sunnud. Certainly within a month, shorter a time than a month. I made up my mind to return the sunnud the moment I was enrolled as an Advocate of the High Court. After returning the sunnud, to the best of my recollection I appeared before the Court, while Mr. Thomas was the Judge. But I can't say so with certainty. I can't recollect whether I appeared before him between my return to Madura and the return of the sunnud. I cannot say whether the Court was or was not adjourned when the sunnud was returned. In Muttuia Pillai *versus* Dorasinghe Taver the defendant in his judgment sneers at me on my quoting Smith's Mercantile Law. I can't just now remember any other particular cases in which the defendant made remarks depreciatory of me, but my general impression is that there are other cases. I did not examine the defendant about those remarks, because they are in his judgment. When I attended the Court on two days I certainly did not mean to apologise. Knowing the defendant's character, I was not prepared to say to him in open Court that I meant no disrespect. Exhibit XVII is a letter from Mr. Scott to me, in reply to mine of the same date. I am perfectly certain Mr. Thomas was in Madura when I wrote to him returning the sunnud.

Q.—When did Mr. Fondclair tell you that the defendant was annoyed at your not addressing him "your Honor!"

A.—I can't exactly recollect the time. I know that Mr. Pole paid Ramen Chetty but I have not got a receipt. I never heard

that there was a warrant against Mr. Pole for that debt. I believe he left Madura in November or December 1869. There was only one man of that name in Madura. I have heard the warrant XIX read out. I don't know anything stated in it. To the best of my recollection Mr. Pole told me that he had paid this debt. Mr. Scott states that this debt was discharged by private arrangement. This money was a fee returned. I gave no intimation to the Civil Court that my connection with O. S. No. 10 of 1869 had ceased with the first hearing. I have not got my fee-book here. I had a communication with S. C. C. Vakil Vidianather Aiyen about this case. He retained me in a great many cases. This was the last case I had been retained by him before I went to England. I can't say which was the last case I had in this or the Civil Court. The other Barristers engaged with me in Original Suit No. 2 of 1869 before the Civil Court were from Madras. But there was a vakil of the Civil Court also engaged with me. His name was Ramasamy Naick. I have not the least re-collection of the Vadivalkharai case. I don't remember anything about that case even after the No. of the case, A. S. No. 291 of 1868 before the Civil Court, was mentioned to me. I don't remember anything about A. S. No. 318 of 1868 nor whether I was solely engaged in these two cases. As I don't remember the cases I can't say whether engagements were made for refunding the fees. I got Mr. Pole, to give a note to Ramen Chetty, for fee to be refunded, that is I believe so. I don't think that the average of my income as given by my Gumastah is correct I received, I believe, some thirteen or fourteen thousand Rupees, from, and through Vencatasawmy Naick, before I went to England. I think that this amount includes a Bond executed by Vencatasawmy to Mr. Pole, for Rs. 7,000 I am sure I did not receive from and through Vencatasawmy Naick, Rs. 30,000. I think I did not receive Rs. 25,000. I went to Madras, on the first occasion, solely for the purpose of appealing against the defendant's orders otherwise I would otherwise not have gone at all. I did not on that occasion go to Madras to memorialize Government against the defendant On the 8th July I wrote a letter to Government about the defendant, and on the 12th and 17th of the same month I wrote two memorials to Government on the same subject. I heard the defendant read the order in the Villiagondum case. I can't say whether the written order in that Case said that it was unnecessary to hear vakils. I never saw the order. I appeared for the defendant in a suit in the Small Cause Court in which Mr. French was examined by me as a witness. He said that he had heard something against me from somebody. He stated what that something was, naming the party who mentioned it to him. I forget whether it was said in answer to my question: to the best of my recollection it was. Mr. French did not say that that something was that in money matters I could not be trusted. As far as I recollect Mr. French said the defendant in that case had offered him a high fee because he did not want me to draw the money, or words to that effect. To the best of my recollection I was not engaged in the Civil Court case before Mr. French. I decline to mention the name of the person to whom the defendant said that he would not have passed these orders against me, had I not spoken against him. It won't criminate me if I mentioned his name. I had information that the defendant himself said that he had had a letter from his father respecting me. I decline to say who my informant was. I decline to state whether Vencatasamy Naidoo ever told me that the defendant told him that he would not have passed these orders against me if I had not been opposed to him. I decline to say whether anybody else communicated this to me. When I examined the defendant about Muthusamy Ayier's appointment as a vakil, I knew the time of his appointment, though not the date. I don't remember the date of my letter to Muthusawmy Ayier's brother. It may be the 12th or 13th July. I heard that the defendant asked Vencatasawmy Naidoo to speak to Colonel Roberts about this suit, but from whom I decline to say. I decline to say whether any of my informants on the above subject were my witnesses. I decline to say whether they were men whom I could not produce as witnesses. I decline also to say from whom I heard of the Acting Collector's remark against the defendant's character for truthfulness. I decline to give up the names of the persons from whose information I framed certain interrogatories to some of my absent witnesses. When I said to the High Court in my appeal that all the cases in which I was engaged had been disposed, I meant I had done all that I was bound to do, or that I had made arrangements with my clients. I don't remember whether I said at the first hearing that the first allusion to the return of my sunnud was made in my memorial to Government. Exhibit M. 6 was sent to me by Mr. Todd before its completion.

Cross-examination continued.—I have made an analysis of my fee-book from May 1871 to May 1872. In June 1871, I got Rs. 60 in a Magisterial case. In August I got Rs. 20 in a Magisterial case, and Rs. 70 in a Revenue case, of Rs. 847-8, which I made in September 1871. I have not made an analysis as to how much of each monthly income was derived in

Magisterial and Revenue cases, and how much in the Civil Courts. I shall, with the Court's permission put in a verified statement to-morrow, showing the particulars. I claim substantial damages for infringement of my right of practising, and for pecuniary loss sustained during the period of my suspension. The infringement of the right includes the loss of reputation, the pain inflicted on my mind, and the degradation. I can't make any apportionment, and say how much I claim under each head, and I need not make it. I cannot say except by a rough calculation how much I have lost in Rupees, annas, and pice—limiting myself to the loss sustained immediately in consequence of this order. I should say Rs. 3,000 or 4,000. But were I to calculate my loss from the number of important cases during the year, I should say my loss has not been less them Rs. 12 000 or Rs. 15,000. I know that in one case alone I was offered Rs. 5,000, if I would make it up with the defendant. I won't say who made the offer. I can't say from what time to what time I have lost Rs. 3,000, or 4,000 above alluded to, nor can I say to what period that amount refers. I made the estimate myself. I calculated upon the average of what I made in the first two years I was here. I claim substantial damages for the period I was suspended.

[Here the plaintiff produced a paper which he said was an article he had prepared to be published in a newspaper (but which was not published), alluding to the defendant's wishing to be addressed "your Honor." Disallowed]

Examination continued.—I did not intend when I went to Madras to appeal, or to present memorials against the defendant, but whilst there a letter from the Governor's Private Secretary Y 2 was received by me, and then I was obliged to present the memorials. The informal and formal certificates of my call to the Bar, I put in as documents Z 2 and A 3. Mr. Robert Fischer became my pupil on the 27th November 1867 on condition that he should remain my pupil for the remuneration already paid, for 18 months after my enrolment as an Advocate. I declined, in cross-examination, to give up the names of persons who gave me information in respect of questions I put to the defendant, because I could not honourably do so without giving them an opportunity of explaining the circumstances under which they communicated their information to me.

The Madras Mail - 8 July

THE MADURA CAUSE CELEBRE.

[*Continued.*]

(*From our Special Reporter.*)

MUTTUKISTNA *vs.* GOLDINGHAM.

(*Before the Principal Sadr Amin of Madura.*)

Oolagasoondram Pillay, examination in chief.—I am a vakil of the Madura Moonsiff's Court. I was Gumasta under the plaintiff from June 1868 up to September 1869; and again since January of the present year, up to date when I was again the plaintiff's Gumasta; he was concerned in some cases in the Civil Court as vakil; some were important cases. All those cases took place in 1868 and 1869. He has appeared only in one Civil case and one Session case subsequent to January of the present year. In the said Civil case, the plaintiff merely appeared in Court and did not address the Court. The defendant decided the case before the plaintiff began to speak. The plaintiff did not ask that he should be allowed to speak. It was a petition case brought under Davastanam Act about the Alagar Covil Davastanam. It was not a Regular Suit. The defendant read his order on the said petition immediately he came into the Court. I know who are the parties who had retained the plaintiff previous to his departure to England. I have brought a list showing the names of the chief parties among them. None of the said chief parties left the plaintiff after his return from England. They say they are willing to retain the plaintiff as their vakil, but with regard to the present state of things, that they are unable to retain him in public.

Q.—Did the said chief parties come to the plaintiff in his house, and ask advice about their suits in the Civil Court?

A.—Yes.

Q—Why did the said parties not retain the plaintiff to appear before the Court?

A.—They did not retain the plaintiff, fearing their cases would be spoiled if they retained the plaintiff, as there had been ill-feeling between the plaintiff and the defendant.

[*The defendant's counsel objects to this question on the ground that conversation said to have taken place behind the defendant's back, cannot be received in evidence and that the parties to the conversation have not been examined. Question disallowed*].

Examination continued.—In 1868 and 1869, the plaintiff made nearly 2,000 Rs. per month. The plaintiff reached Madura from England in May 1871. Since that period the plaintiff makes

nearly 1,000 Rs. a month. Since the date when the High Court cancelled the order made by the defendant about the plaintiff, he makes so much income. I was present with the plaintiff when the warrant came to collect the fine of 50 Rs. from the plaintiff. It was stated in the said warrant that Rs. 50 is the fine imposed under order, dated the 6th March 1871. The plaintiff himself made a copy of the said warrant remarking that it was essential to make a copy as it was stated in the copy of the order that came previously that the fine was 100 Rs. He made the copy into a book. I received and read the copy to compare it with the original warrant. I can recognize it if I can see the copy now. I saw the document G just shown to me. This is the said copy. I saw the document F. This is the warrant which came for the collection of fine. There has now been made in it an interlineation, that is "and of 7th June." It was not made when the peon brought the warrant to the plaintiff for the collection of fine. The remarks on the left side of it were not made at that time. I read at that time the original warrant and the copy G twice or thrice. I read before the plaintiff and before the peon.

Cross-examination.—The plaintiff pays me 15 Rs. a month as salary. Besides that he will pay some thing whenever I am under necessity about money, if I ask. I don't recollect when and how much he paid. It must have been paid before the issue of the warrant. In 1868 and 1869, my salary was only 15 Rs. I was a gumasta under Ramnad Zemindar from September 1869 up to January 1872. I was residing at Madura during that period. I was not at Ramnad. I was preparing copies of some records which were in the Collector's Office. From September 1868 up to January 1872 I had no service under the plaintiff. I know there were cases in the Civil Court in 1869 in which the plaintiff had been retained. I don't know the numbers of them. There was a case about Vadeevalkarey village. I don't know whether it was decided before or after the plaintiff's departure to England. I don't recollect whether Bothagooroo Pillay and Arasayu were clients of the plaintiff in that case or not. I don't remember that Kooppammal was a party in that case. I will know if I see her in person. I don't recollect the name. I don't recollect the fact in any case that the plaintiff received fees and did not appear. I know there was a case in the Small Cause Court against the plaintiff, claiming the return of fees. At the time when the said case came on I was a gumasta under the plaintiff. I don't know whether any other suits of the like nature have been instituted. The plaintiff's brother-in-law, Mr. Pole, had relation with the plaintiff's clients. I don't know whether there was a case against Mr. Pole claiming the return of fees paid to the plaintiff. Some parties will come to the plaintiff through Mr. Pole. He will get fees and pay the same after speaking to the plaintiff. Mr. Pole does not know Tamil. The parties who know how to speak English will come through him. Such parties are Mr. Robert Fischer and others. There was an acquaintance between the plaintiff and Robert Fischer before Mr. Pole introduced him. Mr. Pole lived with the plaintiff in the same family and under his protection. Venkatasamy Naik executed a bond to Mr. Pole for the amount due to the plaintiff. I don't recollect the amount. The plaintiff may have received Rs. 15,000 or 16,000 from Venkatasamy Naik as fees from September 1868 up to October 1869. The said amount includes the amount of a bond in favour of Mr. Pole. I don't recollect the plaintiff's cases of 1869 in this Court. I know there was a case in the Civil Court between Dorasinga Taver and Katamanatchear. The plaintiff was Dorasinga Taver's vakil. I don't know when that case was decided. I don't recollect whether the plaintiff was retained in No. 10 of 1869, on the file of the Civil Court. The plaintiff practices without filing Vakalut. I know the cases in which the plaintiff was retained. They are entered in a book. The plaintiff's gumastas will write the dates of hearing on the briefs. The plaintiff a few days ago did not appear in a case in this Court in which he was retained. The hearing was postponed for a different day from that for which the plaintiff requested, but no notice was given. Therefore he did not appear; but the Court gumasta Koopoosamy Yiengar informed me of the above matter. As soon as I went to the plaintiff's house I entered the dates of hearing on the briefs. I gave the brief to the plaintiff. I was present when the plaintiff made arrangements with his parties with regard to the return of the fees when the plaintiff left for England. I don't remember the names of any parties or cases. The plaintiff did not return the copies which the parties had given to him. After the plaintiff's departure to England, I was present with Mr. Pole, when he returned fees to some parties. I don't remember the names of parties or the amount. Mr. Pole stayed here for two or three months after the plaintiff's departure to England. Before the plaintiff's departure to England, I was present with the plaintiff when he returned the fees to parties. I don't remember who are the parties, to what Court they are parties, or what amount.

Q.—Who are the parties said to have consulted privately with the plaintiff about their cases in the Civil Court after the plaintiff's return from England?

[*The plaintiff objects to the question on the ground that the answer to it would reveal privileged communications between him and his clients. Question disallowed.*]

Examination continued.—There must be 6 or 7 persons who have consulted as above stated. Some of them have now cases in the Civil Court. I do not know whether those cases have been decided or not. The said parties came and spoke to the plaintiff separately. At the time when the said parties spoke I, the plaintiff, and another gumasta were present. No others were present. All the said parties at the time when each had conversation with the plaintiff, gave only the above said reasons for not retaining the plaintiff in public. As regards Velliagoondam case, there had been no such conversation. The parties in the Session case I referred to above did not speak any thing about ill-feelings between the plaintiff and the defendant. That case was decided in favor of the plaintiff's clients. The time when that case was decided may 6 months ago. Of the documents F and G. I received and looked act G first. It was on the 27th 1871 after 10 o'clock in the morning and before 2 o'clock. I and the plaintiff only were there. There were no others. I saw the said copy again on the 28th in the day time, after 12 o'clock and before 1 o'clock. The plaintiff and the peon who brought the warrant were present then and there. There were no others. I saw F at the time that G was seen by me. I have seen G again before it was filed in Court. At first when I saw G, F was in the hands of the plaintiff. It was the same case on the second day. On both days when I saw F, the original G was with the plaintiff, We compared the said two documents. Only the plaintiff keeps the account of his income. He has kept the account from 1868. I have seen the account kept by him previous to his departure to England. I have not seen that account after his return from England. I have often seen the account for the period subsequent to his return from England

Re-examination.—I have compared the two documents F and G, having them both with me.

Plaintiff's 18th witness, Duraisamy Iyer, examination in chief.—I am a gumastah in the Madura Moonsiff's Court. All the records in that Court are in the possession of me and another gumastah, Streenevasa Iyengar. I and he have examined the records. The records for 1867-68 and most part of the records of 1869 are sent to the Civil Court. I examined the other records in the Court. As the plaintiff did not file Vakaluts, it is impossible to find out the case in which the plaintiff was retained. Therefore I did not bring the cases or list as mentioned in the summons. On the day when the plaintiff was to go to England, he came to the Moonsiff's Court and appeared in a case of Akkappa Naik, and informed the Moonsiff that he was going to England.

Cross-examination.—I don't know whether Akkappa Naik was the plaintiff or the defendant in the said case, and also don't know whether the plaintiff was retained by the plaintiff or the defendant in the said case.

Appasawmy Pillay, examination in chief.—I am the Record-keeper, of the Small Cause Court. I was appointed in 1861. I was directed in the summons to produce the cases or list of the cases in which the plaintiff was retained. As the numbers of the cases are not stated in the summons, I could not produce either the cases or a list of them.

Cross-examination.—The plaintiff appeared in some cases and pleaded in Court. I don't recollect the numbers.

Vencatasawmy Naik, examination in chief.—I am Record-keeper of this Courts. It is 7 or 8 months since I was appointed to the said post. I found some of the records referred to in the summons served upon me in this case. I have brought a list of them. I have searched for other records so far as I can. The said numbers amount to 48. In all those cases the plaintiff was retained. Those cases were conducted from 1867 up to 1869. I produce the said list before th Court.

Cross examination.—There are no cases of 1869 in the said list. I don't know the time when they were decided. The dates when the said cases were decided may have been entered in the said list. I don't know whether the plaintiff appeared and pleaded in those cases. I myself prepared the list. The Court Moochy explained in what cases the plaintiff's name appeared in the English decrees. As far as I have seen, the list I have produced, is correct.

Appasamy Iyen examination in chief.—I am the Record-keeper of the Civil Court. It was mentioned in the summons which I received that I was to produce a list of cases, in which the plaintiff was retained. I can not produce it, the numbers are not known. I don't know the numbers.

Cross-examination.—I was appointed to the said post in the year 1867. I have had no leisure to find out the numbers. It is 10 or 12 days since the summons was served. I was sick at the time.

Subbarayaloo Naiken, examination in chief.—I was appointed as gumasta under the plaintiff in August 1871. I went with him to the Palny Hills

in January 1872. It is true that I met the defendant, while I was coming from the Hills. There was a long conversation between him and me. I don't recollect the whole. I remember some. The defendant said that he would not kindly receive the plaintiff, saying him (plaintiff) he is a bad man, as he has sent memorial about him (defendant.)

Exhibits.

A

Proceedings of the Civil Court of Madura, under date the 6th March 1871.

It is now 18 months since Mr. Muttukistna, a vakeel of this Court has ceased to attend the bar of the Court. Rumour proclaims that he has gone to Europe, but he has not thought fit to represent the fact to the Court, either personally or in writing when leaving Madura, as all other vakeels are accustomed to do when desirous of absenting themselves under other circumstances. Although Mr. Muttukistna is an Advocate of the High Court, he is still a practising vakeel of this Court under Regulation 14 of 1816, and like the other vakeels subject to this Court's control ("*control*" substituted in original for "*jurisdiction*" the latter being erased), and the Court cannot allow so marked an instance of disrespect to pass by unnoticed. The order therefore of this Court is that Mr. Muttukistna is suspended from practising as a vakeel of this Court until he offers an ample apology and until he pay a fine of Rupees 50 ("50" substituted in original for "100" the latter being erased), under the provisions of Sec. 14 of the ("*Sec. 14 of the*" substituted in original for "*the*," the latter being erased) above regulation. A copy of this proceedings will be sent bearing to Mr. Muttukistna.

(True extract.)
(Signed) J. D. GOLDINGHAM,
Civil Judge.

(True copy.)
(Signed) J. D. GOLDINGHAM,
Civil Judge.

Filed, 28th May 1872.

(Signed) W. HASLAM,
Sheristadar.

(True copy.)
(Signed) W. HASLAM,
Sheristadar.
(") P. SOOBBIEN,
Head Writer.

Compd. S. Anthony Pillay.

B

Copy served on the Plaintiff at Madura, on the 7th June 1871.

Proceedings of the Civil Court of Madura under date the 6th March 1871.

It is now 18 months since Mr. Muttukisna, a vakil of this Court, has ceased to attend the bar of the Court. Rumour proclaims that he has gone to Europe but he has not thought fit to represent the fact to the Court either personally or in writing, when leaving Madura, as all other vakils are accustomed to do when desirous of absenting themselves under other circumstances. Although Mr. Mutukisna is an Advocate of the High Court, he is still a practising vakil of this Court, under Regulation 14 of 1816, and like the other vakils subject to this Court's control and the Court cannot allow so marked an instance of disrespect to pass by unnoticed. The order, therefore, of the Court is that Mr. Mutukisna is suspended from practising as a vakeel of this Court until he offers an ample apology, and until he pay a fine of Rs. 100 under the provisions of the above Regulation. A copy of this (sic) proceedings will be sent bearing to Mr. Mutukisna.

(True extract.)
(Signed) J. D. GOLDINGHAM,
Civil Judge.

(True copy.)
By order.
(Signed) RAMASAWMY PILLAY,
Sheristadar, Civil Court.

7th June 1871.

Certified Copy.

D. Part 1.

Proceedings of the Civil Court of Madura, under date the 6th March 1871.

It is now 18 months since Mr. Muttukisna, a vakil of this Court has ceased to attend the bar of the Court. Rumour proclaims that he has gone to Europe, but he has not thought fit to represent the fact to the Court either personally or in writing when leaving Madura as all other vakils are accustomed to do when desirous of absenting themselves under other circumstances. Although Mr. Mutukisna is an Advocate of the High Court, he is still a practising vakil of this Court under Regulation 14 of 1816, and like the other vakils subject to this Court's control, and the Court cannot allow so marked an instance of disrespect to pass by unnoticed. The order therefore of this Court is, that Mr. Mutukisna is suspended from practising as a vakil of this Court until he offers an ample apology and until he pay a fine of Rs. 50 under the provisions of Sec. 14 of the above Regulation.

A copy of this proceedings will be sent bearing to Mr. Mutukisna.

(True extract.)
(Signed) J. D. GOLDINGHAM,
Civil Judge.

G

Copy of the Warrant made by Plaintiff in a book when served upon him.

Received at 4 P. M. 27th June 1871.

G

Warrant

Civil Court at Madura

To Kistniengar, Nazir.

Whereas by an order of this Court, dated the 6th March 1871, a fine of (50) fifty rupees has been imposed upon Mr. Mutukisna, who was practising a vakil of this Court. You are hereby required under the provisions of Clause 2, Section 15, Regulation XIV. of 1816 to collect from him the said sum of rupees fifty on or before the 13th June 1871.

H. C. with C. M. P. No. 234 of 1871 } (Signed) J. D. GOLDINGHAM, Civil Judge.

Madura Civil Court, 27th June 1871.

T.

Order.

In reference to the proceedings of this Court, dated the 6th March 1871, the Nazir is directed to collect the fine of 50 Rs. imposed on Mr. Mutukisnah, for neglecting to ("*inform the Court of the departure from Madura,*" erased from the original) attend in Court, and it is further ordered that until Mr. Mutukisna makes a suitable apology for his disrespect in not reporting his departure from Madura, he is suspended from practising as a vakil in ("in" substituted in original for "of" the latter being erased) this Court and in the Courts subordinate thereto.

(Signed) J. D. GOLDINGHAM, Civil Judge.

27th June 1871.

Filed 12th June 1872.

(Signed) W. HASLAM, Sheristadar.

(True copy.)
(Signed) P. SUBBIEN, Head Writer.
(„) W. HASLAM, Sheristadar.

Comp. S. ANTHONY PILLAY.

The Madras Mail - 9 July

THE MADURA CAUSE CELEBRE.

[*Continued.*]

(*From our Special Reporter.*)

MUTTUKISTNA *vs.* GOLDINGHAM.

(*Before the Principal Sadr Amin of Madura.*)

Deposition of Mr. McWaters, C. S., examination in chief by defendant's vakils.—The appointment I held in the Madura district was that of Head Assistant Magistrate and Collector. I was appointed to this district in July or August 1866. With a few small interruptions my stay in the district has been continuous. My connection with this district temporarily ceased from the 29th ultimo. I have known the plaintiff since I joined this district. On many occasions he has practised in my Court. I remember his lately leaving this for England. I have had an opportunity of forming an opinion of his reputation, so far as natives had an opportunity of talking to me about him. From those reports the impression formed upon my mind was, that before the plaintiff left for England the natives had lost confidence in him, in the opinion of those who told me. Those who gave me those reports I must say were natives, and not Europeans. As far as I can recollect, one of those natives in particular was a man who had business relations with the plaintiff. I cannot say whether I believed or not those reports to be true. I treated them as what all native rumours are worth. I treat native reports as idle talk. It is impossible to say whether they are true, or false. I cannot say whether they were wide-spread.

Cross-examination by the plaintiff.—On all occasions that the plaintiff appeared before me, in Court, he behaved like a gentleman I never heard complaints of want of respect or discourtesy against him. I remember a series of Shevagunga cases in which the plaintiff appeared to conduct his cases before me to the best of his ability. I cannot say whether the native who spoke to me was a friend or acquaintance of the defendant, beyond the fact of his paying visits to the defendant. He is Vencatasawmy Naidoo. I have known the defendant since his return to Madura, as far as his last visit to England.

Q.—What is the defendant's character for integrity both among Europeans and natives as far as you know?

(*The defendant's counsel objected to this question as irrelevant.*)

The plaintiff answers that the question is relevant for the following reasons :—

1st.—The defendant in his written statement has asserted, that the plaintiff has lost practise by his character being too well known in the district, which is a very serious imputation on the plaintiff, both as a private gentleman and as a professional man.

2nd.—This is an imputation made not by an ordinary person or suitor but by the Civil and Session Judge before whom he has had the honor of practising on and off for nearly three or four years.

3rd.—This statement of the defendant is verified by him. It will remain a matter of record and go before the High Court, of which I am an Advocate, and also before the Benchers of Lincoln's Inn of which I am a Barrister. My object is to shew that the imputation comes from one, who though Civil and Session Judge, is not worthy of credit, and whose verification ought to have no weight either with this or any other Court, even upon his oath, where his interests are concerned. I wish to shew malice on the defendant's part on this additional ground, that he knew that I was watching his conduct, that I was in communication with authorities in England as well as in Madras, that I expressed a very strong opinion as to the motives in which justice was administered in Madura in the Civil Court, the defendant, passed his orders for the express purpose of getting rid of me from this district.

The Court.—After hearing both sides, I think the question ought to be allowed. It is necessary to decide here whether the plaintiff has sustained pecuniary loss in consequence of the defendant's order. The defendant says that this loss is attributable to the plaintiff's character, and it is therefore necessary that the source from which this opinion of the plaintiff's character is obtained should be tested.

Examination continued.—I quite believe in the integrity of the defendant. I believe every man's integrity till the contrary is proved. I could not state what the general belief is about the defendant's integrity among his brother officers. I have heard no general report against his character. I could not swear that the defendant has strong personal feelings against the plaintiff, that is vindictive feelings.

Deposition of Mr. James Fischer, witness for the defence, examination in chief.—I am son-in-law of the late Zemindar. In that connection I came to Madura in February 1864, and remained here till about the middle of 1867. Ever since I came here I had pecuniary interests here chiefly of a mercantile character. I met the plaintiff in 1867. I had no opportunity of knowing the plaintiff's character personally. It is very hard to say whether his general reputation is good or bad. It is disagreeable to talk of a man's character in private, but it is doubly disagreeable to assail a man's character in a public Court. As I am a merchant and don't reside permanently in the district, it is doubly painful for me to talk of a man's character. I have heard people talk well of him, and I have heard people talk ill of him. I can hardly say how people generally talk of him. I have heard both sides of the story. I have had no personal dealings with the plaintiff. I cannot decide what the plaintiff's reputation is.

Q.—Is what you have heard against the plaintiff sufficient in your opinion to affect his income?

[*The plaintiff* objects to the question on the ground that the defendant can only adduce evidence of general character, and then leave it to the Court to decide whether facts elicited in such evidence were sufficient to warrant the conclusion, that it was the plaintiff's reputation that brought about loss of practice. *Objection allowed.*]

Just at this point the *witness* answered, "I have no means of forming any opinion on that point. I will with the greatest pleasure, state anything favorable of a man if I personally know him."

Cross-examination.—I left this in 1867, I came here again about the middle of 1871, when the plaintiff was absent in England, at least he was not here.

Q.—What is the defendant's reputation for integrity?

[*With reference to the order made to-day, question disallowed.*]

Dr. A. Gamack, Zillah Surgeon, examined.—I have produced the duplicates of a Medical Certificate granted by me to the defendant on the 24th July 1871, and I have no objection to put it in. I attended on the defendant on the occasion on which I granted the certificate.

E. D. Fondclair, examination in chief.—I told the plaintiff that the defendant was annoyed with him because he did not address him as "your Honor." I must have mentioned this in 1868 and 1869. I don't quite remember the time. I was then the plaintiff's client. I heard the defendant say that the plaintiff did not address him in Court politely, or words to that effect. The plaintiff said he would in future address the defendant "your Honor." As much as I remember the defendant told me "you had better tell the plaintiff so" I have known the plaintiff since his arrival in Madura. I entrusted all my work to him. I have since ceased to do so. It is rather a difficult thing to swear about the plaintiff's general reputation. Rumour reached me that his clients were not satisfied with him.

Cross-examination.—I and my family were on friendly terms with the plaintiff Mr. Mutukisna, till April 1869, when the plaintiff went to England, I have had no communication with him, nor have we met. I can't precisely define the rumour. It reached me about three years ago, and I can't say now precisely when and from whom I heard such and such things. I am as much on friendly terms with the defendant as with all the Europeans at this station.

Re examination.—Since the plaintiff returned from England, I have not been on the same friendly terms with him as before, but there has been no cause for our ceasing to be so friendly in our private capacity.

Interrogutories for the examination of James Deehan, Printer and Publisher of the "Madras Athenæum and Daily News."

Q.—Do you produce the issue of the *Athenæum and Daily News* of the 4th May 1869.

A.—Yes. I produce the file of the *Athenæum and Daily News* for the year 1869, which contains the issue.

Q.—Do you produce it from proper custody.

A.—Yes.

Cross-interrogatories for the examination of James Deehan.—How many subscribers to your paper had you in the District of Madura in May 1868?

A.—I can't say. The records have either been lost or destroyed.

The Madras Mail – 11 July

THE MADURA CAUSE CELEBRE.

[*Continued.*]

(*From our Special Reporter.*)

MUTTUKISTNA *vs.* GOLDINGHAM.

(*Before the Principal Sadr Amin of Madura.*)

WITNESSES FOR THE DEFENCE.

Alaghirisami Naik deposed.—I know that the plaintiff was the professional Advocate for Vencatasawmy Naidoo and Durasinga Taver. I had an opportunity of knowing the sum Vencatasawmy paid to the plaintiff for himself and Durasinga Taver. I was the chief man who managed the whole of Durasinga's case, and part of Vencatasawmy's case. Durasinga's case was number 21 of 1869 before the Civil Court, and the fee paid to the plaintiff in that case was Rs. 10,000. Venkatasawmy paid it, and obtained a receipt in my name. For professional services rendered by the plaintiff to Venkatasawmy, I paid him at Shevagunga Rs. 4 000 in the early part of December 1868. I took a receipt for that. Then we came to Madura about the middle of December, and I paid to the plaintiff on account of Venkatasamy Rs. 8 500; at the time of this payment I cancelled the receipt for Rs. 4,000 and took from the plaintiff one receipt for the whole total of both payments Rs. 12,500. In Suit No. 1 of 1869 before the Civil Court, the plaintiff appeared for Durasinga, who was the defendant. In that case the plaintiff was paid Rs. 500. The plaintiff drew a Hundee on Vencatasamy for Rs. 400, payable to Pakker Rowtten, and I paid it on account of Vencatasamy. It is distinct from the accounts of the receipts above referred to. The bond for Rs. 7,000 in Mr. Pole's name is for a portion of Rs. 10,000, which I have already mentioned during the pending of the appeal in the sub-lease case. I made up an account of sums paid to plaintiff in all Shevagunga cases. It is with me, but I have not produced it. Venkatasawmy, has a copy of it. Mr. Robert Fischer, wanted to know how much had been paid to the plaintiff in connection with the Shevagunga litigation, and therefore I prepared the account. Fischer held the Zemindary after the decision of the Civil Court, and till the appeal decision, on consideration of making it over to Venkatasawmy, on the result of the appeal being known. I was asked to prepare the account, because the Zemindary money passed through my hand. I was Venkatasawmy's Commission Agent, there. I don't like to produce my accounts voluntarily at the instance of the defendant, but I shall do so if the Court wishes.

Cross examination.—I know the plaintiff appeared in a series of Shevagunga cases, to which Venkatasamy and Dorosinga were no parties. Those were criminal cases before the Head Assistant Magistrate and Sub-Magistrate, and when they came before the Session Court in appeal time the plaintiff appeared. Venkatasamy was entrusted with those cases. He and Venkatasamy settled accounts when I and Venkatasawmy settled our accounts. Venkatasawmy did not produce any accounts signed by the plaintiff; nor copy of any account furnished to the plaintiff by Venkatasawmy, nor any account of furniture purchased by him from the plaintiff. Venkataswmy

... a copy certified by me of the accounts above referred to.

Re examination.—Venkatasawmy paid the vakil's fees in the Shevagunga Criminal Cases I have alluded to.

By the Court.—I made up accounts of payment to the plaintiff in 1869. I commenced from December 1868, and closed with June 1869.

Abdabrahiman Rowllen deposed.—I have known the plaintiff 4 or 5 years. My brother is respondent in A. S. No. 240 of 1868. It is about a year since he died. He retained the plaintiff in his case. I had been with my brother. Fees Rs. 30 were paid. The plaintiff appeared on the date of the hearing. As the Judge did not come to the Court from the chamber, the plaintiff said at half past four that the Judge would not come, that it was too late, and that he was going home. In the meantime the Judge came. The plaintiff went to the Judge, spoke some thing to him, and said that the Judge had ordered us to come the next day. The plaintiff went to his house. The plaintiff was, on the next day, requested to come to the Court. The plaintiff said that he would come only if the fees were again paid to him, and that his appearance for one day had been compensated by the fees already paid to him. Afterwards Kasimalisahib, who was a joint vakil with the plaintiff, pleaded the case on behalf of my brother.

Cross-examination.—I am a relative of Mudalialeney who is the defendant's witness. I swear I don't remember having given evidence up to date. There are three or four of my cases in the Madura Moonsiff's Court. I have no cases in this Court. I don't live by merchandise. I live by the profession of blacksmith and by cultivation. I did not tell the defendant that the plaintiff refused to come and plead in a case of appeal in which my brother was concerned without a second fee.

Moodalialeney Rowllen deposed.—I have known the plaintiff 5 or 6 years. I was told that the plaintiff after receiving fees from parties never comes to the Court and never pleads. I had retained the plaintiff in A. S. No. 114 of 1868. I paid him fees Rs. 25. The hearing of that case was fixed for October. On that day the plaintiff said "you will not succeed and you must pay 20 Rs. more." I paid him 10 Rs. He came to the Court on the day of the hearing. The Court called for me and said that the hearing was fixed for the next day. I informed the plaintiff of this. He told me he would come to the Court, but he did not. There upon I retained vakil Ramasamy Sastry, to whom separate fees were paid, and told him to speak.

Cross-examination.—I did not prefer a complaint about the plaintiff's further demand of fees or about his non-attendance. I did not speak either to the defendant or to his vakil about it. I spoke to some other persons. I have no cases in the Civil Court. I have cases in other Courts.

B. Kistnasami Chettiar deposed.—I know the plaintiff. I don't know what opinion was formed by the people generally about the plaintiff as far as his profession is concerned.

Cross-examination.—Some days ago I sent words to the plaintiff through his Gumastah, Oolagasundaram Pillay, that I wished the plaintiff to go to Madras on my own case.

Subbien deposed.—I have known the plaintiff since he came to Madura. There has been a good opinion of the plaintiff by the public generally so far as his professional business extends.

Cross-examination.—I had no connection whatever with the cases in which he was retained. I am a private vakil. I did not tell the defendant the opinion of the people about the plaintiff. I don't recollect having told any body. I was a writer in the Head Assistant Collector's Office. It is true that I was committed for having destroyed some records. I was dismissed. The Collector passed an order that I was not fit for the Government service.

Re-Examination.—I was released in a Criminal Case. It happened ten years ago. It is not my duty to introduce cases to the vakils. I did not try afterwards to get employment under the Government, but I tried only to vindicate my character. I received an order from the Government that I was fit for the service.

Subbramania Iyen deposed.—I have known the plaintiff 5 or 6 years. As for as the plaintiff's profession is concerned, some say he is good and some say he has spoiled their cases. The plaintiff undertook to plead in a revenue case before the Head Assistant Collector on behalf of my master 8 months ago. Accordingly he came and spoke for one day. I had been to the Plaintiff's house with my master. The plaintiff demanded 150 Rs. more in addition to 200 Rs being the fees paid previously. His reason for such demand was that the opposite party paid their vakil Rs. 350. Accordingly my master paid Rs. 97½ to the plaintiff deducting the commission of Koomanavalu Pillay. After such payment the plaintiff came and pleaded again.

Cross-examination.—Narayanen Chetty of Amma Naikanur and Vellyan Chetty Agent of my Master, have settled with the plaintiff for my Master. My Master Letchumanen Chetty and vakil Venkataramier spoke to the plaintiff at Ramnad. I am a paid servant of my master.

Ramasamy Iyen deposed.—I am a gumasta under Venkatasawmy Naik, Sub lessee of the Shevagungah Zemindary. I know the plaintiff since he came to this town. There has been no good opinion among the public generally about the plaintiff, for two years. I know the defendant's witness, Ganapathy Iyen. I know the circumstances that happened between the plaintiff and him in his suit.

Cross-examination.—Lately I was a Manager in the Zemindary of Ammukaiknoor. The Zemindar did not dismiss me because I had misappropriated money. I discontinued the post. The Zemindar sent me a takeed that dismissed me It is stated in the takeed that I was discontinued as I came to Madura without attending to my duties. Ganapathee is is not a close relative of mine. Venkatasamy Naik has got more cases in the Civil Court. I and Ganapathy Iyen are relatives to Mutusawmy Iyen who is before the Court. I did not inform the defendant of the opinon of the people regarding the plaintiff.

Ganapathy Iyen deposed.—I know plaintiff since 1867. The people have got an opinion about the plaintiff that his conduct is not good. They say that he will not manage the business of the parties according to agreement. A complaint was preferred against me to the Head Assistant Magistrate in 1867. I and Munthraswara Iyer, went to the plaintiff and retained him and paid Rs. 80 as fees. Afterwards the plaintiff wrote a statement and sent it to the Head Assistant Magistrate, through his Gumasta and told me to come and inform him the date of the hearing. I accordingly went to him on the morning of the date when the hearing was fixed. He said that he would come to the office at 10 o'clock. I went to the office and was waiting till evening. The plaintiff did not come. The case was closed against me. I went to the plaintiff's house immediately. My opponent's father was there. He concealed himself as soon as he saw me. I asked the plaintiff to return the fees. He came to meet me without replying. I went away and told this to Munthraswara Iyer. He wrote a letter to the plaintiff. I don't know what was the plaintiff's answer for it. Muntharsswara Iyer told me that he (plaintiff) did not answer properly. Letters were written in English. I don't know English. I have produced the document mentioned in the Summons. The signature which it bears is of Muntharaswarier. I know a little English. Muntharaswarier is dead. There were no other cases of mine in the Head Magistrate's Office.

Cross-examination.—I did not file any cases in the Munsiff's Court in this year, nor did I plead. Sunnud was furnished to me in 1863. I may have filed 1 or 2 cases. I don't remember I had filed a case in the Small Cause Court 4 years ago against my brothers. The Suit was dismissed, It is true that my brother's wife brought a Regular Suit against me. I did not file the puttas even in that case. I don't know whether there was an order of the Munsiff to my brother's wife sanctioning a criminal prosecution against me. I remember the names of some who have an opinion that the plaintiff does not behave well towards clients.

Pariasamy Nathan deposed.—I have known the plaintiff 3 or 4 years. I have heard that he does not behave well to clients. If any party retain him he will come on the 1st day. Afterwards he will not come. I retained the plaintiff in a special Registration case in the Madura Munsiff's Court in which I was the plaintiff. He came the 1st day to the Court and pleaded the case. The Court adjourned the hearing. 10 or 15 days after I was told that the plaintiff was going to England. I went to him and asked him if it was true. He said, yes, I asked him to remain for the hearing. He said that the fees had been compensated by his having appeared one day, and if I wished him to rem[illegible] must pay 10 Rs. a day. I paid him again 35 Rs. Afterwards he came to the Court a second time and pleaded the case, and went away to England.

Cross-examination.—Subbaraya Iyer, Munsiff's Court vakil, introduced me the 1st time, and paid Rs. 50 in my presence. The plaintiff and Subbaraya Iyer spoke both in English and Tamil; I did not go to the plaintiff's house after he came from England with Akkappa Naikan's son, taking flowers, &c. I have no cases in the Civil Court. There was an appeal which was referred to this Court, and was closed by this Court.

Aiyyasawmy Pillay deposed:—I know the plaintiff since 1867. I don't know what opinion the people have formed generally about the plaintiff. I heard that 2 or 3 parties have brought suits against the plaintiff to recover fees. There was a complaint of assault before the Madura Sub-Magistrate between Munjagapatham and others and Katherbacha. I am gumasta under Katherbacha. Katherbatcha had retained the plaintiff. Rs. 1000 was settled as fee, and it was paid. He came and pleaded the case for 2 days. Thereupon he told me he would only come again if 500 Rs. in excess were paid to him. Therefore no justice was done to us. Thereupon Sami Iyer and Mr. Scott conducted the case and completed it.

Re-examination — The said criminal case was tried in 1867. I don't recollect the month. At the time when the plaintiff said that he would come only if 500 Rs. were again paid, the inquiry was not closed. Among the witnesses for the defence some were to be examined. I don't know whether the plaintiff was retained afterwards in a case before the Small Cause Court by Kadarbacha. Some days after the plaintiff said that he would not come.

Simuthakan Sahib deposed — I have known the plaintiff since 1867. I was told by many persons that he receives money from clients and never looks after their business. Nanjayapathan and others had brought an assult case before the Madura Sub Magistrate in 1867 against Katharbacha my uncle's son. The plaintiff was retained by the said Kutherbacha, I myself paid Rs. 1000 to the plaintiff as fees. It was paid for his speech up to the last moment. He came and spoke for 2 days. On the 3rd day he said "I will come only if 500 Rs. in excess be paid" Hereupon Mr. Scott and Tamu Iyer appeared, spoke and completed the case. After the plaintiff's refusal the case was closed. I live by cultivation and money dealings. I hold Patta for 1000 Rs. I pay income-tax, nearly Rs. 150.

Cross-examination. —I was told by some Nattoo-kottay Chetties and some others that the plaintiff receives money from his clients and never conducts their cases properly. I don't remember their names. Kadar bcaha was acquitted, but security was received from him for 1000 Rs. I don't remember whether the plaintiff appeared before the Deputy Magistrate after the examination of the plaintiff's witnesses in that case was closed. We did not complain anywhere owing to the plaintiff's not having appeared and spoke as was agreed. The plaintiff appeared, and spoke for me before the Small Cause Court in a case that was brought against me 2 or 3 years ago. There is no case in the Civil Court either for me or for my father. I don't know whether my younger or elder brothers have or have not cases in the Civil Court. I have got only two brothers. I and they live separately. Division has taken place with regard to some property. My father is dead. I swear I don't know whether my elder brothers have or have not now cases in the Civil Court. Among my relatives there is none named Bochamiya Sahib. There is one named Katharbacha. I don't know whether he has or has not cases in the Civil Court. I don't know whether any one of my relatives has or has not cases in the Civil Court.

Re-examination. —Thathamiya brought a suit against Ponnusamy Taver to recover a village valued at Rs. 30,000. Judgment was given in that case against Thathamiya, declaring that Thathamiya should redeem the village, paying Rs. 24,000. It was decided even in the High Court against Thathamiya. In the suit brought against me in the SmallCause Court, I had retained Vayeethonather. The said vakil said that the plaintiff also must be retained with him to address the Court in English. I said that I would not consent to that proposal.

By Court. —The said vakil Vayeethenather addressed the Court in Tamil.

Vencata Rengier deposed. —I have been a District Moonsiff since December 1870. Before that I was Sheristadar of the Civil Court of Madura. I held that post when Mr. Thomas was the Judge. He ceased to be Judge of Madura on the 2nd July 1868. He came here in June 1867. There was only one long recess of the court between those dates. He was at Ootacamund for two months from about the middle of April. After that recess before the 2nd July 1868, he went to Madras on five days' leave. The plaintiff was furnished with a sunnud to practise as a pleader. I never saw it after it was issued. In the ordinary course of business I would have seen it if it was returned. I never saw any communication from the plaintiff to Mr. Thomas returning the sunnud. I have received no intimation whatever of its return.

Cross examination — In my time no regular list of sunnud recalled and returned was kept. In the Civil Court when a sunnud is recalled it is usual to pass an order stating the grounds of recall, and it is also entered in the diary. I was Sheristadar when Mr. Alldritt's sunnud was recalled. I don't know whether the order recalling Mr. Alldritt's sunnud was entered in the diary. Since I came to give evidence, my attention was drawn to that order by Ananthungar, Criminal Jusbumis in the Civil Court, and somebody else whom I don't remember. Just now the defendant spoke to me about this order since I came to give evidence. It was on the first occasion of my coming to give evidence that the defendant spoke to me. I have not seen the diary. The Diary was not referred to in my presence by the Head Writer of the Civil Court. I was aware of the order passed in Mr. Alldritt's case. But I don't know whether it was in existence when I left the Civil Court as a Moonsiff. I am prepared to swear that the plaintiff's sunnud was not returned to Mr. Thomas with my knowledge. After Mr. Thomas left his successor, Mr. Sharp had to write to him for some papers which he had forgetfully taken with him. The order transferring Mr. Thomas from this District came very suddenly, and he was in a great confusion of mind.

Re-examination —Mr. Robert Fischer returned his sunnud. The order on it was entered in the diary. I don't remember any other instance.

[illegible]he judgment sent up with the [illegible]
[illegible] differs very materially from the [illegible]
[illegible]l, and should be referred to

THE JUDGMENT.

Tuesday, 9th July 1872.

The Principal Sudr Amin on this day, delivered judgment in the case of Muttukistna *versus* Goldingham. His Honor remarked that this was a suit for damages (Rs. 3,000) brought by the plaintiff against the defendant. The defendant passed an order on the 6th March, fining the plaintiff Rs. 100 for disrespect of Court in having gone to England without giving notice to the Court. In a subsequent order, dated June 27th, the defendant reduced the fine to Rs. 50. The plaintiff appealed to the High Court, and the High Court upset the order as illegal. The plaintiff in this suit sues for damages, loss of reputation, loss of practice, &c. The defendant denies malice as alleged by the plaintiff, and also adds that there has been no loss of practice, and if there has been, it is in consequence of the plaintiff's character being too well known in the district. The issues as originally settled and subsequently amended were as follow:—(The issues were here read). Before going into the issues, his Honor had one or two general observations to make. He would first remark that it was very unfortunate that neither party had made application to transfer the suit to another Court; the consequence was, his Honor remarked, that he had to perform a most delicate duty in judicially pronouncing his opinion on the acts of his judicial superior. His Honor remarked that he had one consolation, viz., that he was quite a stranger to Madura, and his mind was in consequence free from all local prejudices and scandal. The plaintiff would have been better advised had he got some other professional gentleman than himsel to conduct his case, and this would have avoided several unpleasant circumstances that had occurred. The plaintiff had made another serious mistake in not opening his case at the proper time, and insisted on entering the witness box whenever he chose. The expediency of the plaintiff's opening his case was suggested by the defendant's counsel, but the plaintiff would not go into the facts of the case before the evidence was gone into, for fear, as he said, that defendant would concoct counter-evidence. By this the plaintiff left the Court in the dark as to the facts he intended to prove, and the evidence he would adduce, and the Court was often unable to see how several questions and answers bore upon the case, and the plaintiff always wished the Court to give him credit for shewing at some future stage how they bore upon the merits of the case. As to the question of jurisdiction the Court first wished to consider what was the status of the plaintiff. Was he simply a Vakil of the Civil and Sessions Court, or an Advocate of the High Court, or both. If he were a vakil only, that is a pleader of the Civil and Session Court, he was amenable to the jurisdiction of the defendant. The plaintiff says that he was not a pleader of the Civil and Session Court because he had returned his sunnued. Regulation XIV of 1816 prescribes certain forms to be gone thorough by a pleader, when he returns his sunnud, and if they are gone through, the sunnud is cancelled. The plaintiff seys he returned the sunnud to Mr. Thomas, but of this, there is no evidence. The evidence of the Sheristadar and the Head Writer, go to shew that Mr. Thomas was not in Madura, but on the Nilgherries at the time that the plaintiff alleges that he returned the sunnud. His Honor further remarked that the mere fact of the return of the sunnud was not enough; it was necessary that the sunnud should be cancelled, and of the cancelment of the plaintiff's sunnud there was no evidence, and therefore the Court held that the plaintiff was amenable to the jurisdiction of the Civil Court, as a pleader of that Court. The law requires that there should exist certain circumstances to render the order illegal. Are there these circumstances in this case? The order of the 6th March states that the plaintiff went away to England without giving notice to the Court, that the business of the Court was thereby inconvenienced, and that therefore he was fined. The Regulation of 1863 states that a pleader need not be in Court at the time judgment is delivered. The plaintiff is charged with not being in court at the time judgment was delivered in certain cases. The

Court held that a notice should have been served on the plaintiff. The plaintiff left the district, and thus placed himself beyond the jurisdiction of the Court. Formal notice ought therefore to have been given him, and as none was issued, the plaintiff was not bound to be in Court at the time the judgment was pronounced. There were two cases cited, in the first of which it is said, that the plaintiff did not attend at the trial. But there was another vakil who was also engaged to assist the plaintiff in this suit, and this vakil appeared. The plaintiff's presence therefore was not necessary, and the Court therefore was of opinion that there did not exist those circumstances to give the defendant jurisdiction to fine the plaintiff. As to the second issue, the Court thought that the defendant acted *bonâ fide* under Act XVIII. of 1850. This case involved a question of construction of old Regulation XVI of Act I of 1846, and Act XX of 1853. The Court did not think it necessary to go into any length of its reasons for its construction of these enactments, there were difficulties in construing them, and other Judges besides the defendant had fallen into error. As far as this point was concerned there was nothing wrong in the conduct of the defendant. The plaintiff in the next place attempted to prove that there was malice in fact. This his Honor thought was childish. The plaintiff said that the defendant called upon him on his (plaintiff's) return from England, and that there was a talk of being called to the Bar. Englishmen, his Honor said, were generally proud, and after several years' residence in a Mofussil station, flattery made them worse. The plaintiff was a native of Ceylon, he went to England, was called to the Bar, married an English lady, associated with English gentlemen, and ladies perhaps, and expected the same treatment from Europeans in India: in this he was sadly disappointed, and, being sensitive, the slightest thing was exaggerated, and everything was interpreted as if intended to do him harm, and we have an instanse of that in this case. The plaintiff was proud of being called to the Bar, he unwisely mooted the subject in a conversation with the defendant. As the plaintiff was a native, the defendant might have treated him as such, and this might have preyed on the plaintiff's mind. But there is nothing to shew any malice in the defendant's mind. Next we have the conversation regarding the expression "your Honor," at least what the defendant is said to have mentioned to Mr. Fondclair, about the plaintiff not often enough addressing him thus. It is perfectly natural that the defendant might have felt it as a want of respect towards him, but at the same time the Court thought that there was no evidence of malice. Another circumstance was that the defendant sent word to the plaintiff when he called, "Master can't see." This the Court said was a very common message, and it was customary among gentlemen to send such messages. And here also his Honor failed to see any evidence of malice. Then as to what the plaintiff called "nagging," there was no evidence; but there were two judgments; the first O. S. No. 1 of 1869, is a case in which the plaintiff cited Smith's Mercantile Law and Storey's Equity. (The passages were read by the Court.) His Honor was of opinion that there was nothing sneering, or what the plaintiff called "nagging" in the defendant's judgment. Any Judge would have made such a remark. The next case was O. S. No. 4 of 1869. Here there was no point of reference to the plaintiff. It was simply a comment on the plaintiff in the argument of the case, and every Judge had a right to make such a remark. The next circumstance was, when the defendant went to see the plaintiff's piano, and then remarked, (but to whom we are not told) that the plaintiff did not come down to see him. The defendant, his Honor remarked, went to the plaintiff's house as he would to a shop, to inspect articles which were for sale, and could not have expected the plaintiff to have come down to see him. There was no evidence that the defendant complained to any one of the plaintiff's want of courtesy. The plaintiff said that he watched the defendant, and that therefore the latter wished to get rid of him from the District. Of this there was no evidence. It was further urged that the defendant knew that the plaintiff had spoken to the Duke of Argyll and that therefore malice was engendered in the defendant's mind. The Court said that there was no evidence of any conversation with the Duke of Argyll, and no evidence of a conversation with Lord Napier, except the pamphlet. That conversation, however, must have taken place long before the orders of 6th March and 27th June were passed, and, therefore, there could have

been no malice in the mind of the defendant when he passed these orders. The plaintiff, his Honor said, had failed to prove malice in fact, and the Court held that neither malice in fact or malice in law existed. The defendant, his Honor thought, had acted *bonâ fide* on what he thought was negligence on the part of the plaintiff, and therefore it was not necessary to go into the question of damages.

The Court *dismissed* the suit *with all costs.*

The Madura Case

Muttukistna vs. Goldingham

Minute

I have read the papers in this case with great care, and have come to the conclusion that in the interests of the public service it is desirable that Mr Goldingham, the Civil and Session Judge of Madura, should be transferred to another Court, and that Mr Snaith, the Acting Judge of the Court of Small Causes at that station, should be sent to another District and should be removed for the present at all events from the Judicial Department. In regard to Captain Guthrie, the Superintendent of Police, I do not consider that any blame attaches to him, and I would leave him where he is.

The suit recently tried in the Principal Sadr Amin's Court at Madura in which Mr. H. Muthukistna, an Advocate of the High Court, who has for some years been practising as a Pleader in the Madura Courts was Plaintiff, and Mr. J. D. Goldingham, Civil and Sessions Judge of Madura, Defendant, was first brought officially to the notice of Government in Mr. Goldingham's letter of the 13th June last, in which he preferred charges of a somewhat grave character against Captain Guthrie and Mr. Smith, accusing them of having conspired together, and instigated the Plaintiff to bring the suit with the object of procuring Mr. Goldingham's removal from the District. This letter was sent

sent to Captain Guthrie and Mr Smith for any remarks they might wish to make on it.—

The following are the charges preferred by Mr Goldingham against Captn Guthrie and Captain Guthrie's replies.

1st That Captain Guthrie had volunteered to give testimony to the effect that Mr Goldingham had a man in his private employ who was at the same time an Ameen in the Madura Munsifs' Court. In answer to this Captain Guthrie states that he has never, on any occasion, volunteered to give evidence for the ample reason that he could give none. He adds that Mr Goldingham grounds his assertion on the story of a Spy.

2d That Captain Guthrie mad[e]

enga[...]

enquiries in the matter referred to in the first charge through the medium of one of the Police Constables. This charge also is emphatically denied by Captain Guthrie, who alleges that it is founded on the story of the spy before referred to.

3^d^ that Captain Guthrie urged Mr. Mutthukistna to file his suit against Mr Goldingham, even against his own wish. This also is emphatically denied.

4th that Captain Guthrie had had several interviews with Mr. Mutthukistna since the commencement of the suit, and that he had seen certain papers connected with it and had sent them to Mr. Smith.

In regard to this charge Captain Guthrie states that he has known

Mr

Mr Muttukistna for some years; that
they have exchanged visits frequently,
and that Mr Muttukistna has very
often mentioned to him his cause of
complaint against Mr Goldingham;
that he (Captain Guthrie) said little
to Mr Muttukistna on the subject, but
listened to what he had to say as courtesy
demanded. He admits that, at Mr
Smarth's request, he obtained certain papers
relating to the suit from Mr Muttukis[tna]
and sent them on to Mr Smarth.

5th That Captain Guthrie gave
information to Mr Muttukistna regarding
evidence likely to be given by Lieutt
Porteous unfavorable to Mr Goldingham's
character as a Judge.

This charge is denied by
Captain

Captain Guthrie who points out with reference to it, that Mr Goldingham admits in his letter to Government having heard of a disparaging remark made regarding him by Lieutt Porteous, from which admission he contends that it is only reasonable to infer that other persons may have heard of the remark.

6th That Captain Guthrie informed Mr Muttukistna of certain letters which had passed between Mr Goldingham and Mr Davies, lately Assistant to the Collector and Magistrate of Madura, relating to a matter which had led to Mr Davies removal to another District.

On this Captain Guthrie observes that he, in common with five or six other persons, saw one of the letters

referred

referred to, and that the matter thus became notorious.

7th That Captain Guthrie in his evidence given on the recent trial wrongfully and maliciously alleged that Mr Goldingham had a reputation for untruthfulness among the Europeans of the District.

In reply to this, Captain Guthrie states that the answer to which Mr. Goldingham refers was elicited from him by a question put by the Plaintiff's to which question Mr Goldingham's Vakeel at first objected, but was instructed by Mr Goldingham (who was present) to allow it. Captain Guthrie alleges that the question was allowed to be put for the purpose of injuring him, and that Mr. Goldingham

Goldingham boasted that he had let him "into a trap".

On full consideration of the statements made in Mr. Goldingham's letter of the 13th June of Captain Guthrie's explanation, and of the other papers which have come before us, I see no evidence whatever to show that Captain Guthrie was an instigator of, or an active party to, the proceedings instituted by Mr. Mutter-kistna against the Judge of the District. Most of Mr. Goldingham's charges against Captain Guthrie appear to have been based on reports brought to him by natives whom Captain Guthrie, not unreasonably, designates as spies, and are emphatically denied by the accused. I see no reason whatever for ~~[illegible]~~ discrediting

Captain

Captain Guthries' ~~[illegible]~~ statements, but every reason for distrusting Mr Goldingham's suspicions. The admission of the latter that he availed himself of such a source of information as one of Mr Muttukistna's Gomastahs, and that on receiving information, apparently from some other source, affecting Captain Guthrie he "dropped his acquaintance entirely," without, it would seem, having given Captain Guthrie any opportunity of explaining, affords evidence of a remarkable readiness to suspect and to act on suspicion. Captain Guthrie's answers to the first two questions put to him regarding Mr Goldingham's reputation, do not evince any eagerness on his part to say what might be damaging to Mr Goldingham. In regard to the answers which forms the substance of Mr Goldingham's

7th

7th charge against Captain Guthrie, it is evident that the former, and not the latter, is responsible for the question which elicited it being allowed. The reasons assigned by Mr Goldingham for the course taken by him, with reference to this question, appear to me very unsatisfactory. I would inform Captain Guthrie that the Government consider his explanation to be satisfactory.

As regards Mr Snaith I consider that he also has satisfactorily met the charge of having been improperly mixed up with the suit. The specific accusations made against him in Mr Goldingham's letter of the 13th June are:

1st that he avowed, when giving his evidence in the suit, a wish to get rid of Mr Goldingham from the

District

District on public grounds.

2nd that on the same occasion he stated in open Court that Mr Goldingham's character had been constantly attacked on his (Mr Snaith's) Croquet ground.

Mr Snaith's explanation however, and especially that contained in his second letter, puts these statements in a very different light from that in which they appear as recorded in the report of the trial. They were not statements volunteered by Mr Snaith, or elicited by questions put to him by the Plaintiff with whom he is supposed to have conspired. They were elicited in answer, Mr Snaith states, to leading questions put to him by Mr Goldingham's Vakeel, and the actual

answers

answers were for the most part merely "yes" or "no". This would materially alter the aspect of the case, as it affects Mr Smith, if, in his reply to our proceedings of the 24th June last, he had confined himself to an explanation of the tenor of that given in his letter of the 25th July.

Unfortunately however in his letter of the 9th July Mr Smith has permitted himself to make a series of accusations against Mr Goldingham, charging him with misconduct of the gravest character, but most of them vague in their tenor, and so avowedly unsupported by anything approaching to proof, that it is impossible for the Government to deal with them, or to reconcile the course taken in

bringing

bringing them forward with the possession of the most ordinary discretion on the part of the accuser. The charges are most of them avowedly based on rumour, and that of the most vague and general description - as for instance that Mr Goldingham takes bribes of 5,000 Rs, that the money is taken to him at night in Currency Notes, that Mr Goldingham has Agents for the purposes of bribery all over the place, who are not paid, but pay themselves, that he splits all great cases into two. It is really very difficult to know how these wild statements of rumours affecting the Chief Judicial Officer of an important District should be dealt with. If they were more precise, or if there were any

indication

indication that evidence in support of them would be forthcoming, the obvious duty of the Government would be to appoint a Commission of Enquiry; but the statements are for the most part so indefinite that it would be impossible to frame charges upon them. Indeed, except in regard to two matters which do not appertain to the more serious charges, I hardly think that it would be fair to Mr. Goldingham to send them to him for explanation. The two matters to which I refer are

1st the allegation that Mr. Goldingham obtained in an improper manner a pamphlet which had been written by Mr. Mutukistna and which was purloined from the latter by a person who

who at the time held an appointment in the Civil and Session Court, and who obtained leave of absence and entered the service of Mr Mutukistna for the purpose of obtaining possession of the said pamphlet while still retaining his appointment in the Court.

2d that Mr Goldingham, with the view of injuring Mr Mutukistna appointed an unnecessary number of Pleaders to the Court many of them unpassed men.

I was at first of opinion that Mr Goldingham ought to be called upon to submit an official explanation with reference to each of these charges, but on further reflection I think it questionable whether anything that should

should influence the conduct of the Government would be gained by in-vestigating them. Since the case came before me a demi-official letter addressed by Mr Goldingham to the Chief Secretary has been circulated enclosing papers which purport to contain an account of the mode in which the pamphlet referred to came into Mr Goldingham's possession, and although these papers do not entirely clear up the transaction for the name of the copyist referred to in them is V. Subbiah while the name of the person through whom the pamphlet is alleged to have been obtained is Coopposawmy Iyengar, I hardly think it worthwhile to pursue the Enquiry further. The more especially

as

as on other grounds I deem it of im-
-portance that Mr Goldingham should
at once be transferred to another Court.
I entertain the same view in regard
to the allegation relating to the ap-
-pointment of Pleaders. The appointment
of Pleaders rests with the Civil and
Session Judge, and although certain
tests of qualifications are required by
the rules, I have very little doubt that
in any particular cases in which the
rules have been infringed reasons for
the infringement will be forthcoming
more or less plausible, and that the
result of the enquiry, if it be instituted,
will not materially affect our decision.

For these reasons I am of opinion
that it is not necessary or advisable

to

to call upon Mr Goldingham for explanation on any of the charges preferred in Mr Smith's extraordinary letter of the 9th July, all of which except the two just noticed, are either so vague as to be almost unintelligible or by the accuser's own admission are incapable of proof.

I consider that Mr Smith should be very severely censured for the course which he has taken and removed from his present acting appointment. It would be impossible for the public service to be carried on if public servants were to be permitted to make against each other accusations of the most heinous character in support of which by their own admissions they have not a particle of evidence to adduce.

From

From the tone of Mr Snaith's letter I have no doubt that he honestly believes that there is a great deal of truth in the rumours vague as they are, which he has embodied in that document, but giving him all credit for good faith there remains the fact that he has made statements reflecting most seriously on the reputation of a public servant which he is ~~avowedly~~ admits ~~that~~ he is unable to establish. For this grave act of indiscretion I would remand Mr Snaith to his substantive appointment of Head Assistant to the Collector and Magistrate of Bellary.

I have already stated that I consider it desirable in the public interests that Mr Goldingham should be transferred to another Court. His conduct

conduct in the two cases in which he has incurred the severe censure of the High Court and one of which led to the institution of the recent suit, and the admissions contained in his letter to Government as to his practice of procuring information regarding the proceedings of the other European Officers of the District prove him, in my opinion, to be a very unfit man to hold the highest judicial office in a District which evidently is and for many years has been a scene of continual intrigue. The existence in that District of two large Zemindaries which for several years have been the subject of a continual cause of litigation, the scandal which a few months ago transpired in connection

with

with a shameless attempt at extortion by a European on one of those Zemindars, the evil repute which has attached to more than one of the leading Natives of the District, appear to me to demonstrate the expediency of placing in the principal Offices English gentlemen of an established reputation for high minded and honourable conduct and with sufficient force of character and discernment to enable them sternly to keep in check and repress the spirit of intrigue and dishonesty which at present prevails. An English Official who permits himself to be guided by the reports of interested native informers, who by such proceedings as those of Mr Goldingham in the case of the complaint

preferred

preferred by the Revd Mr Noyes and in
has laid himself open to severe censure
the case of Mr Mutukistna, is in my
opinion extremely unfit to preside
in the Civil and Session Court of
Madura. I would transfer Mr
Goldingham to some less important
Court intimating to him the reasons
which have induced the Government
to take this step.

Mr Goldingham charges Moo-
thoosawmy Chetty, formerly Principal
~~Sadr Ameen at Madura, and now Principal~~
Sadr Ameen at Tranquebar, with having
conspired with Mr Mutukistna in the
matter of this suit. I see no evidence
of anything of the sort, nor any
grounds for imputing blame to this
native judicial officer who has
always had the reputation of
being an upright and honest public servant.

26th September/72 A. J. Arbuthnot

Minute by the Hon'ble
A J Arbuthnot - C

26 Sept 1872

I quite concur in the desire expressed by Mr. Arbuthnot that Capt. Fortune & Mr. Smith have distinctively refuted Mr. Goldingham's accusations of improper conduct in connection with the action recently brought against him by Mr. Muttukistnamma. From my knowledge of the late Principal Sudr Ameen (formerly Manager of the Regl. Dept. of the Board) and the high character he has always borne I doubt not ~~doubt~~ that he would have been equally successful in exculpating himself, had the opportunity been afforded to him.

The private differences & personal animosities which pervade the official circle of society in Madras are much to be la-

-mented - but they sink into in-
-significance before the very
serious charges against the soldiery
which are contained in Mr
Smith's letter. The charges com-
prise corrupt practices - and
malfeasance - official &
private - of grave enormity. It
is true that they are reported as
rumours - but the judicial ad-
ministration of the District must
be a scandal & reproach, if
such rumours are current &
obtain credence. The purity of
our administration - and the
integrity of our officers - more es-
-pecially of those who are members
of the Covenanted Service - are
of such paramount importance

that the mere existence of such
rumours cannot be allowed to
pass unnoticed. It may be that
they are the offspring of personal
~~[illegible]~~ malice – ~~[illegible]~~ –
or that their only foundation is ~~[illegible]~~ some act
of indiscretion or ~~folly~~ imprudence. – Whether
such be the case. or whether they
have any real foundation – must
I think – be subject of Enquiry in
some form or other. An administra-
-tion which in the estimation of
the public is impure or corrupt is
a curse to them and a disgrace
to us. Nor would it be just to Mr.
Fielding ~~[illegible]~~ to allow such
serious imputations on his character
– both as an officer of Govt. and as
an English gentleman – to remain
on record without affording him the

opportunity of disproving them.
So strong is the feeling against him in some quarters that they are not likely to be noticed in Missions. They may be revised against him years hence, when their refutation will certainly be more difficult and may even be impossible. And Mr. Smith on his part may complain that he has been punished for simply bringing to the knowledge of Govt. ~~reports~~ rumours that were so prejudicial to the administration of justice in his District that it was his duty to report them ~~at~~ and that this was done without any enquiry as to their truth or falsity.

The best mode of instituting the necessary enquiries is a

37 matter of some difficulty. A formal commission cannot be appointed without drawing up specific charges - for which I think the information before Govt. is too vague & scanty. Nor would ~~it be~~ it, I conceive, be fair to Mr. [illegible] to expose him to the humiliation of a public trial on rumours which ought to be ignored, may - as we must hope, prove to be unfounded.

The course which seems to me most suitable under the peculiar circumstances of the case is to forward the

Mr. Smith's letter to the Chief Justice I suggest that ~~inviting to~~ one of the Judges of the High Court should proceed to Madras and there institute such enquiries ~~[illegible]~~ as may tend to show whether Mr. Goldingham's conduct & administration have been such as Mr. Smith represents them to have been according to common ~~[illegible]~~ report. We can then decide what further steps should be taken in the matter. If the High Court decline, then I think Mr. Smith should be formally called on to state as regards each serious charge his authority &

Evidence — If he is unable to ~~substantiate~~ furnish Govt. with the means of testing the truth of the very ~~[illegible]~~ charges which ~~he has brought~~ — by accepting & officially rebutting such Rumours, he has brought against Mr. Goldingham he must take the consequences.

J. O'Shea.

30 Sept 72.

Minute by the Ho[n]
J. D. Sim - C.S.I.

30 Sept. 1872

I concur in the opinion that Mr Goldingham's charge of "conspiracy" against Capt. Jutterie and Mr Smith has entirely failed.

With respect to the statements of Mr Smith affecting the character of Mr Goldingham: — accusations brought against a Public Functionary, in a letter written to defend the writer from a charge preferred against him by that functionary, and which are for the most part, by the admission of the writer himself, unsupported by any substantial evidence, do not appear to me to afford ground for inquiry by the Government into the conduct of the accused. If it were found that charges of this nature were treated by the Govt. as a reason for placing ~~putting~~ a public officer upon his trial, a

in other words for seriously calling in question his fitness for the position which he holds, - two consequences are inevitable, viz. 1st that no public Officer, however well conducted, ~~will~~ would feel ~~himself~~ his character safe from ~~[illegible]~~ doubt or question on the part of the Govt.; and 2ndly that the Govt. would be deluged with letters of unfounded incrimination, the result of private animosity.

Of the charges brought by Mr Smith there are (as noticed by Mr. Arbuthnot) only two which may appear to afford ground for the interference of Govt. - viz. that which relates to the "pamphlet" case, and that which relates to the nomination of Vakeels. With regard to the first, some kind of ~~[illegible]~~ explanation appears to have been furnished by Mr Goldingham; and were it otherwise, I should not myself be disposed to interfere in a matter which affects him rather in his private than

in his official character. With regard to the second - it may be desirable that we should receive information either from Mr Goldingham or his successor, as to the number of Vakeels now in his Court, and how far they have satisfied the tests prescribed by the Rules.

It is however sufficiently evident that Mr. Goldingham who by some means or other has contrived to excite so much hostility and suspicion in his district and who, by his own admission, has instituted what may be called a system of 'Espionage' intended for his own defence but singularly embarrassing his position and injurious to his reputation, is not a fit person to hold the highest judicial position in a scene of social intrigue, incessant litigation, and low political morality, such as Madura would appear to present. Such a district (as the Collector observes) demands on the part

of the Govt. extreme care in the selection of those who are to be chiefly connected with the administration of its affairs; and I agree in the opinion that it will be desirable to transfer Mr. Goldingham to some less important and less difficult sphere of action.

With regard to Mr Snaith. – There can be no doubt that statements addressed to Govt. by one public Officer against the character of another without any evidence to support them are in the highest degree objectionable. It must be remembered, however, that Mr Snaith's catalogue of charges against Mr. Goldingham was sent to the Govt. in reply to a charge of "conspiracy" brought against him by Mr. Goldingham (his argument being that Mr. Goldingham's character and conduct had been such as to justify the evidence given by Mr Snaith during the trial) and was in the nature not of original attack, but of self-defence. I am disposed therefore to think that we need

not do more than reprimand Mr. Leith for the course which he has pursued. The case is perhaps scarcely such as to warrant the infliction of anything like a penalty upon him; but I would express strongly the sense which the Govt. entertain of the unprofessional and discreditable character of his representations.

Hobart

Oct 7/72

Minute by His Excellency
the Governor.

17 Oct. 1872

Confidential

16

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read ~~the following letter~~ Proceedings of Government of 24th June 1872. No. 868.

Read also the following papers:-

From	Mr. J. F. Snaith M.C.S.	Dy. 9th July 1872.
—	Captain T. K. Guthrie	" 4th — —
—	Mr. J. D. Goldingham	" 11th — —
—	" J. F. Snaith	" 10th ~~Sept.~~ —
—	" J. F. Snaith	" 25 — —
—	" J. D. Goldingham	" 9th Sept. —

The Minutes recorded by the Rt. Hon. the Governor & the Hon. [illegible] & Hon. J. D. Sim – are not to be brought on the record – as per instructions [illegible]

Order thereon of Dated 12th October/72. No. 1370

From the papers above recorded it appears that the suit recently tried in the Principal Sadr Amin's Court at Madura, in which Mr. H. Mutukistna an Advocate of the High Court, who has for some years been practising

[initials]
[initials]
[initials]
[initials]

as a Pleader in the Madura Courts was Plaintiff, and Mr. J.D. Goldingham, Civil and Session Judge of Madura, Defendant, was first brought officially to the notice of Government in Mr Goldingham's letter of the 13th June last, in which he preferred charges of a somewhat grave character against Captain Guthrie and Mr. Smith, accusing them of having conspired together and instigated the Plaintiff to bring the suit with the object of procuring Mr Goldingham's removal from

from the District. This letter was sent to Captain Guthrie and Mr. Snaith for any remarks they might wish to make on it.

2. The following are the charges preferred by Mr. Goldingham against Captn. Guthrie and Captain Guthrie's replies.

1st. That Captain Guthrie had volunteered to give testimony to the effect that Mr Goldingham had a man in his private employ who was at the same time an Ameen in the Madura Munsif's Court. In answer to this Captain Guthrie states that he has never

never, on any occasion, volunteered to give evidence for the ample reason that he could give none. He adds that Mr Goldingham grounds his assertion on the story of a spy..

2d. That Captain Guthrie made Enquiries in the matter referred to in the first charge through the medium of one of the Police Constables. This charge also is Emphatically denied by Captain Guthrie, who alleges that it is founded on the story of the spy before referred to.

3d. That Captain

Guthrie

Guthrie urged Mr. Mutu-
-kistna to file his suit
against Mr. Goldingham,
even against his own wish -
This also is emphatically
denied -

4th That Captain Guthrie
had had several inter-
-views with Mr. Mutukistna
since the commencement
of the suit, and that he
had seen certain papers
connected with it and
had sent them to Mr.
Smith. In regard
to this charge Captain
Guthrie states that he
has known Mr. Mutu-
-kistna for some years;

that

that they have exchanged visits frequently, and that Mr. Mutukistna has very often mentioned to him his cause of complaint against Mr. Goldingham; that he (Captain Guthrie) said little to Mr. Mutukistna on the subject, but listened to what he had to say as courtesy demanded. He admits that, at Mr. Smith's request, he obtained certain papers relating to the suit from Mr. Mutukistna and sent them on to Mr. Smith.

5th.

19

5th ~~that~~ Captain Guthrie gave information to Mr. Mutukistna regarding evidence likely to be given by Lieutt Porteous un-favorable to Mr. Goldingham's character as a Judge. This charge is denied by Captain Guthrie, who points out with reference to it that Mr Goldingham admits in his letter to Government having heard of a disparaging remark made regarding him by Lieutt Porteous, from which admission he contends

that

that it is only reasonable to infer that other persons may have heard of the remark.

6th. that Captain Guthrie informed Mr Hutchinson of certain letters which had passed between Mr Goldingham and Mr. Davies, lately Assistant to the Collector and Magistrate of Madura, relating to a matter which had led to Mr. Davies removal to another District. On this Captain Guthrie observes that he, in common

with

with five or six other persons, saw one of the letters referred to, and that the matter thus became notorious.

7th That Captain Guthrie in his evidence given on the recent trial wrongfully and maliciously alleged that Mr Goldingham had a reputation for untruthfulness among the Europeans of the District. In reply to this, Captain Guthrie states that the answer to which Mr Goldingham refers was elicited from him by a question put by the Plaintiff, to which question Mr Goldingham's Vakeel at

at first objected, but was instructed by Mr Golding-ham (who was present) to allow it. Captain Guthrie alleges that the question was allowed to be put for the purpose of injuring him, and that Mr Golding-ham boasted that he had let him "into a trap".

3. On full considera-tion of the Statements made in Mr Goldingham's letter of the 13th June of Captain Guthrie's explanation, and of the other papers which have come before Government, the Governor in Council

can

can find no evidence
whatever to show that
Captain Guthrie was an
instigator of, or an active
party to, the proceedings
instituted by Mr. Mitu-
-kistna against the Judge
of the District. Most of Mr.
Goldingham's charges against
Captain Guthrie appear
to have been based on reports
brought to him by natives,
whom Captain Guthrie,
not unreasonably, designates
as spies, and are emphatically
denied by the accused.
The Governor in Council
sees no reason whatever
for discrediting Captain
Guthrie's

Guthrie's statements, but every reason for distrusting Mr Goldingham's suspicions. The admission of the latter that he availed himself of such a source of information as one of Mr Mutuhishna's Gomastahs, and that on receiving information, apparently from some other source, affecting Captain Guthrie he "dropped his acquaintance entirely", without it would seem having given Captain Guthrie any opportunity of explaining, affords evidence of a remarkable readiness to suspect and

to

to act on suspicion. Captain Guthrie's answers to the first two questions put to him regarding Mr Goldingham's reputation, do not evince any eagerness on his part to say what might be damaging to Mr Goldingham. In regard to the answer which forms the substance of Mr Goldingham's 7th charge against Captain Guthrie, it is evident that the former, and not the latter, is responsible for the question which elicited it being allowed. The reasons assigned by Mr Goldingham for the course taken by him with reference

to

to this question are very unsatisfactory. The Governor in Council resolves accordingly to inform Captain Guthrie that he has completely met the accusations preferred against him by Mr Goldingham.

4. As regards Mr Smith His Excellency in Council considers that he also has satisfactorily met the charge of having been improperly mixed up with the Suit. The specific accusations made against him in Mr Goldingham's letter of the 13th June are -

1st that he avowed

when

when giving his evidence in the suit, a wish to get rid of Mr Goldingham from the District on public grounds.

2d that on the same occasion he stated in open Court that Mr Goldingham's character had been constantly attacked on his (Mr Snaith's) croquet grounds. Mr Snaith's explanation however, and especially that contained in his second letter, puts these statements in a very different light from that in which they appear as recorded in the report of the trial. They were not

statements

statements volunteered by Mr Snaith, or elicited by questions put to him by the Plaintiff with whom he is supposed to have conspired. They were elicited in answer, Mr Snaith states, to leading questions put to him by Mr Goldingham's Vakeel, and the actual answers were for the most part merely "yes," or "no." This would materially alter the aspect of the case, as it affects Mr Snaith, if, in his reply to the Proceedings of Government of the 24th

June

June last, he had confined himself to an explanation of the tenor of that given in his letter of the 25th July.—

5. Unfortunately however in his letter of the 9th July Mr Snaith has permitted himself to make a series of accusations against Mr Goldingham, charging him with misconduct of the gravest character, but most of them vague in their tenor, and so avowedly unsupported by any thing approaching to proof that it is impossible for the Government to deal with

with them, or to reconcile the course taken in bringing them forward with the possession of the most ordinary discretion on the part of the accuser. The charges are most of them avowedly based on rumour, and that of the most vague and general description - as for instance that Mr. Goldingham takes bribes of 5000 Rs, that the money is taken to him at night in Currency Notes, that Mr. Goldingham has agents for the purposes of

I should be inclined to omit this from order

A. A.

of bribery all over the place who are not paid, but pay themselves, that he splits all great cases into two, and other accusa-tions which although of minor gravity would, if true, seriously compromise the character of Mr Golding-ham.

6. The Governor in Council has read with much regret those portions of Mr Snaith's letter in which he has so indiscreetly accused of the gravest offences an officer occupying a high judicial office - Mr Snaith himself acknowledges that

that he has no substantial evidence whatever for these grave accusations, and it is impossible for the Governor in Council to divest himself of the impression that Mr Smith by his readiness to receive calumnious rumours has himself been the chief cause of their ~~subsistence~~ continuance and frequency. ~~The Governor in Council considers that it is~~ It is evidently impossible for the public service to be carried on if public servants were are to be permitted to make against each other accusations

accusations of the most heinous character in sup-
-port of which, by their own admission, they have not a particle of evidence to adduce. While the Governor in Council is willing to believe that Mr Smith has been misled in acting in a manner so detrimental to the public interests, and that his rash accusations against Mr Golding have are not due to malicious motives, he cannot allow so grave an offence to be passed over without serious notice. He

accordingly

accordingly resolves to convey to Mr. Smith the severe censure of Government for his conduct, and to remand him to his substantive appoint-ment of Head Assistant to the Collector and Magis-trate of Bellary.—

7.— The Governor in Council has by this decision suf-ficiently indicated how entirely groundless, in the opinion of Government, are the accusations which have been so rashly preferred against Mr Goldingham, but after a most careful consideration of the whole of

I would say simply [illegible]

"~~has~~ sufficiently indica[illegible] his opinion of the accusatio[illegible]
his opinion of the accusations"

H

of the papers connected with the recent trial, His Excellency in Council is convinced that it is not desirable in the public interests that Mr Goldingham should be allowed to remain at Madura. His conduct in the two cases in which he has incurred the severe censure of the High Court, one of which led to the institution of the recent suit, and the admissions contained in his letter to Government as to his practice of procuring information regarding the proceedings of

of the other European officers of the district, prove him, in the opinion of Government, to be unfit to hold the highest judicial office in a district which evidently is, and for many years has been, a scene of continual intrigue, and which requires, in the important position of the chief judicial authority, ~~an officer not only of great ability, but of firm judgment and proved discretion.~~ An English official who permits himself to be guided by the reports of interested native informers

I would say

an officer with an established reputation for high minded conduct and with sufficient force of character and proved discretion to enable him sternly to keep in check and repress the spirit of intrigue and dishonesty which at present prevails.

informers, who by such proceedings as those of Mr. Goldingham in the case of the complaint preferred by the Revd Mr. Noyes, and in the case of Mr. Mutukistna has laid himself open to severe censure, has shown himself wanting in these essential qualities, and is, in the opinion of Government, specially ~~disqualified~~ unfit for the unusually onerous duty of presiding in the Civil and Sessions Court of Madura.

8. The lamentable disunion of the European Society in Madura which

which is apparent from the correspondence under review has also, in the opinion of the Government, been due in a great measure to the indiscreet line of conduct pursued by Mr Goldingham, and altho' this is a matter of minor importance as compared with the graver questions which have come under the consideration of Government, it cannot have failed to operate injuriously to the public interests of the District. Under these circumstances

line of

the

the Governor in Council has directed the transfer of Mr Goldingham to the Civil and Sessions Court of Nellore.

HEL

Fr Copy of the order to
1 J. D. Goldingham Esqre. } desp.d in MS. from Otty.
" J. H. Smith Esqre.
" Captain C. K. Guthrie

6 Paras 1. 2. 3 of the Order to I. Genl of Police
Full copy of the Order to High Court } desp 15/11
do —— Ag Ct. & Judge of Madura
6 { Cs. Ed. 128 — Not required for the Volume

4 Copies for Gol. Home Gov Pro Volume — 23/11

Pro 12 Oct 72 1370

Mr Goldingham + Mr Smith

Govt. of {187 } Madras.

To ______________________

Dated } 187 , *No.*
Recd.

Nos.

Madura Papers

For orders

Documents to High Ct & not to send to Sec. of State.
To see what remains there printed

Note.

Should order
in Madura case be
to High Court and
papers connected with
copy sent to Secretary of

MADURA
MADRAS PRESIDENCY.
28th JULY 1868.

MY LORD DUKE.

Your grace will forgive me for presuming to intrude on you this communication when I assure your grace that my only object is to place in a proper light the relations that subsisted between SIR HERCULES ROBINSON and the late Mr. DYKE. From the tenor of your GRACE'S Despatch (printed copy of which I enclose) it is very evident that SIR HERCULES led the Colonial Office to believe that HIS Excellency fully appreciated those qualities for which the Despatch and the universal voice of the Island very justly gives him credit.

† Printed copy enclosed.

The truth is, as will appear by Mr. DYKE'S letter † to me written only a couple of months before ~~his death~~ he died that he was positively persecuted to death by SIR HERCULES and his clique. If your grace would call for the correspondence that passed between the late Government Agent and the Governor with reference to ~~other~~ the Police and ~~the~~ other Public Questions. You will find my assertion fully borne out.

I have ceased to have any connection with Ceylon and have no personal interest in stating that SIR HERCULES ROBINSON did not care for the *Natives*; that his retaining Mr KELLY as Magistrate in the Northern Province in spite of the representations of the people forwarded through and virtually endorsed by Mr. DYKE, and in the face of the Scandelous disclosures made in a Trial before the Supreme Court (a Trial conducted by myself in behalf of the Queen), shew how grossly he abused his authority and how little he regarded the real welfare of the Country. It is not however mere isolated acts of his administration that are open to censure, but his whole conduct was characterized by what Mr. DYKE properly calls a Want of Equity and by utter disregard of those interests of which HIS Excellency ougt to have been the special guardian.

I have sir
(Signed) H. F. MOOTOOKISNA.

JFFANA

JANUARY 24th 1867.

MY DEAR SIR,

You mentioned to me lately the letter which I wrote to you at your request before your going to England, as to our business relations had been left by you with some one in England and had not been returned to you; and you ask me to write some sort of repetition of what I then wrote. The facts since the renewal of the relations in question having been of a corresponding character to what they were before you left for England, I am enabled without hesitation or difficulty to comply with your request. Both publicly and otherwise I have frequently expressed strong opinions in writing of the importance of the office of the Deputy Queen's Advocate of a Province.

In fact it was at one time proposed to do away with the office and I had particular correspondence with SIR. ARTHUR BULLER respecting this and contributed as I believe towards the abandonment of this design.

I had stated this so often that I think that it is very probable that I stated it in my former letter what I now repeat; that I regard the Deputy Queen's Advocate as the Government Agent's right Arm and consider that the Government Agent here would be pitiably helpless without the willing and efficient aid of such an Officer — and the substance of what I wrote you before was that your co-operation had been to a most satisfactory degree of this character and as already stated above I repeat this as equally applicable to our relation since your return to Jaffna. — It is not that you have merely conducted the routive business in this spirit, but that also more generally and comprehensivily and in fullrecognition of what I have always considered should be the position

taken up by the Deputy Queen's Advocate. You have always whether expressly applied to or otherwise, & instances of the latter character have been frequent, stated your views and opinions to me frankly and unreservedly; and that so far as I can call to mind, I have not ever in any matter of consequence found reason in the results to be otherwise than completely satisfied with your opinions and advice.

Your's very truly

(Signed) P. A. DYKE.

H. F. MUTUKISNA *Esquire*.

JAFFNA

JANUARY 24th 1867.

MY DEAR SIR,

After sending off my letter of this date's date, it occurred to me that I ought to have mentioned that you had habitually evinced much interest in the welfare of this Province in matters other than those immediately within the sphere of your peculiar duties, and that your suggestions as to measures affecting their interests have often been of much practical value, more especially as regards legislations respecting them. A recent instance of which latter fact is the FISCAL'S Ordinance which has just been published. — Hurried as we both were as to the time avoilable to us for remarks upon the first publication of this Law, I yet see that most of your suggestions and several of mine have been adopted and the ordinance &c. thus modified is very much less objectionable than was the first draft of it.

Your's very truly

(Signed) P. A. DYKE.

H. F. MUTUKISNA *Esquire*.

[illegible]

(3)

JAFFNA

APRIL 19th 1862.

DEAR SIR.

I return herewith the enclosure of your letter just received.

I am gratified by the terms in which you refer to our official relations. You know my opinion as to what the character of the relations between the Deputy Queen's Advocate, & Government Agent should be, & it would be very irksome indeed to me were those relations at any time to be different in character to what they have been with Mr. C. STEWART, Mr. MURRY and yourself frank & unreserved, and I have to thank you especially for going beyond what was perhaps required of you in offering suggestions and affording me information & assistance.—

I hear with regret that your health has of late somewhat failed. I hope that your visit to EUROPE will have the effect of restoring it.

Believe me dear sir.

Your's very faithfully

(Signed) P. A. DYKE

H. F. MUTUKISNA *Esquire*.

Strike off
25 copies
soon.

Enclosure 1
In a letter from the Civil & Session Judge of Madura dated 11th July 1872 No 272

Proof sheet of
Memorial of
Mr Mutukisna

Mr Goldingham's letter